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HYDE STREET FISHING HARBOR / PIER 45 SHEDS A & C

Draft Environmental Impact Report

File No 93.574E
SCH #94073023

Draft Summary of Comments and Responses

November 26, 1996

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Draft EIR Publication Date: April 26, 1996
Draft EIR Public Comment Period: June 10, 1996
Draft Public Hearing Date: June 6, 1996
Final EIR Certification Date: December, 12, 1996



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PLANNING DEPARTMENT

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TO WHOM IT MAY CONCERN

From: Robert W. Passmore, Assistant Director - Implementation

Re: Attached Comments and Responses to Draft Environmental Impact Report

File # 93.574E - Hyde Street Fishing Harbor/Pier 45 Sheds A and C

Date: November 1996

The Attached Responses to the Comments made by you and others on the subject Draft EIR are presented for your information and use in any hearings held to consider whether or not to approve the project itself. The City Planning Commission will determine whether the EIR is complete and adequate. The Commission does not conduct a hearing to receive comments on the Responses to Comments. No such hearing is required by the California Environmental Quality Act. You may, however, always write to the Commission members or to the President of the Planning Commission at 1660 Mission Street - 5th Floor and express your opinion about the Responses.

Thank you for your continuing interest in this document.

G:\WP51\C&RTRANS.MEM

REF 387.15 H995c

Hyde Street Fishing
Harbor/Pier 45 sheds A
1996.

City and County of San Francisco
Department of city Planning

HYDE STREET FISHING HARBOR / PIER 45 SHEDS A & C

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A. INTRODUCTION

This document contains summaries of the public comments received on the Draft Environmental Impact Report (DEIR) prepared for the Hyde Street Harbor project and responses to those comments. Also included are staff-initiated text changes.

All substantive comments made at the DEIR public hearing before the City Planning Commission on June 6, 1996 and all written comments on the DEIR received during the public review period from April 26, 1996 to June 10, 1996 are presented herein by direct quotation, edited to delete repetition, nonsubstantive material, and those comments that are not directed at the EIR.

Comments and responses are grouped by subject matter and are arranged by topics corresponding to the Table of Contents in the DEIR. Each group of comments is followed by its set of responses; the order of the responses under each topic follows the order of the comments. As the subject matter of one topic may overlap that of other topics, the reader must occasionally refer to more than one group of comments and responses to review all information on a given subject. Where this occurs, cross references are provided.

Some comments do not pertain to physical environmental issues, but responses are included to provide additional information for use by decision makers.

These comments and responses will be incorporated into the EIR as a new chapter. Text changes resulting from comments and responses will also be incorporated into the EIR, as indicated in the responses.

B. LIST OF PERSONS COMMENTING

WRITTEN COMMENTERS

Sharon Lee Polledri, Director of Planning & Development, Port of San Francisco (written comments dated June 5, 1996).

Julie Marcus (written comments dated May 28, 1996)

Wilhelmina Sijssling (written comments dated May 29, 1996)

Robert N. Miller, President, Crab Boat Owners Association (written comments dated May 25, 1996)

D. Bibeau, Commander, U.S. Coast Guard, (written comments dated May 23, 1996)

Arthur Feinstein, Program Coordinator, Golden Gate Audubon Society (written comments dated May 23, 1996)

Judy Irving IDG Films, (written comments dated May 22, 1996)

Lisa McCally, (written comments dated May 22, 1996)

Daniel Macchiarini, S.E.R.C. member, (written comments dated May 20, 1996)

Laura Burtch, (written comments dated June 2, 1996)

Elizabeth A. Z. Schiff, (written comments dated June 3, 1996)

David Zovickian, President, Dolphin Swimming and Boating Club, Inc. (written comments dated May 31, 1996)

Nicholas Salcedo, Coastal Analysts, San Francisco Bay Conservation and Development Commission (written comments dated June 7, 1996)

Joseph LaClair, Bay Design Analyst, San Francisco Bay Conservation and Development Commission (written comments dated August 12, 1994)

Christopher Martin, The Cannery (written comments dated June 10, 1996)

Leslie Anglim, (written comments not dated received June 10, 1996)

IX. Summary of Comments and Responses

B. List of Persons Commenting

David Behar, Executive Director, The Bay Institute of San Francisco, (written comments dated June 10, 1996)

Linda M. Sheehan, Pollution Programs Manager, Center for Marine Conservation, (written comments dated June 10, 1996)

William G. Thomas, Superintendent, San Francisco Maritime NHP, U.S. Dept. of the Interior, (written comments dated June 10, 1996)

Kathy Lohan, Executive Director, The National Maritime Museum Association, (written comments dated June 7, 1996)

Laura Taylor, President, South End Rowing Club, (written comments dated June 10, 1996)

Margaret Reilly, Attorney for Concerned Citizens and Users of Aquatic Park and Friends of Aquatic Park, and Roger Beers, Attorney for Dolphin Club, (written comments dated June 10, 1996)

Dr. Douglas A. Segar, Director, Institute of the North, (written comments dated June 8, 1996)

Sue C. Hestor, Attorney at Law, (written comments dated June 10, 1996)

Maggie Hallahan, Aquatic Club member (written comments dated June 7, 1996)

Alice Watts, NaWahineoke - Canoe club (written comments dated June 5, 1996)

Robert Blum, Aquatic Club (written comments dated June 11, 1996)

Joanne Wilson, Planner San Francisco Recreation and Park Department (written comments dated June 18, 1996)

M. Toby Levine, (written comments dated June 16, 1996)

PUBLIC HEARING (VERBAL) COMMENTERS

Michael LaRocca

Lawrence B. Martin

Jeannette Caito

Mike Berline

Tom Creedon

Phil Betiveгна

Chris Martin

Alessandro Baccari

Bob Miller

Kathy Lohan

IX. Summary of Comments and Responses
B. List of Persons Commenting

Susan Alexander

Zeke Grader

Margaret Reilly

Aaron Peskin

Megan Sullivan

David Zovickian

John Beale

Jeanine Dubois

Wilhemina Sijsling

David Kennedy

Sue Hestor

John Rohosky

Ken Coren

Laura Burtch

Kelly J. Hayden, Commissioner

Esther Y. Marks, Commissioner

Arnold Baker, Commissioner

Beverly J. Mills, Commissioner

Hector J. Chinchilla, Commissioner

IX. Summary of Comments and Responses
C. Comment and Responses
1. General Comments and Letters on the Proposed Project

C. COMMENTS AND RESPONSES

1. GENERAL COMMENTS AND LETTERS ON THE PROPOSED PROJECT

General comments on the proposed project were expressed in comment letters and in testimony at the Public Hearing by representatives of the commercial fishing industry (fishermen and fish processors and wholesalers), and local merchants. Many of these comments require no response because they are not specific comments on the EIR. Because these comments provide information that helps to clarify the purpose of the project they are included in this Comment and Response Section. Comments clarifying the need for the proposed fishing harbor follow.

Comments

“Our ability to provide fresh fish all year is dependent on fishermen bringing their catch to San Francisco from one season to the next. Right now, salmon is in season, the bite is on, but the bite is on south of Half Moon Bay. That's where the fish are, that's where the boats are. When the salmon will be here, the boats will be here. That goes for all the seasons .

Sword fish season is next. When the fish are close to the harbor, the boats will be here. The same goes for the crab season; the boats will come for the opening of the season, and two weeks later, they are gone, except for the local fishermen .

Herring season boats come from the whole Pacific Coast to fish this resource, but when the season is over, again, the boats leave. When the fish are here, the boats are here . San Francisco deserves a modern fishing harbor. I've made a major investment in the wharf .

I feel that if the Hyde Street Harbor is not built, my investment will be in jeopardy, as well as the whole fishing industry. I urge you, my family urges you, to please support the fishing industry and build a new state-of-the-art fishing harbor.” (Michael LaRocca, verbal comments)

Summary of Comments and Responses

C. Comment and Responses

1. General Comments and Letters on the Proposed Project

“I personally support the project. The premise of the complaint is wrong. We are not introducing a fishing industry into the same water we swim in. The fishermen are already there and were there before us. What we are doing is fixing the mess over there. For example, yesterday the wind came up and there were around 30 fishing boats tied up helter skelter in the outer lagoon with no water, no power, no toilets, no pump-out facilities, no skirts and so forth. Fishermen belong in Fisherman's Wharf. San Francisco has the obligation to provide them with proper sanitary berthing. That is what this project is about. That goal would seem above reproach. It was the position of the previous South End Rowing Club board to support this project. I hope it will be the position of the new board.” (Mike Berline, verbal comments)

“San Francisco has regained its spot as the center of the Bay Area fishing industry. But while the processing facilities are great, the harbor berths are simply not adequate to meet the needs of the San Francisco fishing industry. Over the past 20 years, we have lost many of our fishing boats to other harbors because of the facility, and I think with these new berths at Pier 45, it would really be a first-class processing plant.” (Phil Betivegna, verbal comments)

“A survey title analysis of economic impact for the commercial fishing industry on the City and County of San Francisco dated August 30, 1989, authored by Patrick Flannegan and others, studied the economic contribution to Fisherman's Wharf and the City of the commercial fishing industry. It also projected additional economic benefits to the City if an adequate harbor and facilities had been built at Fisherman's Wharf during the same year. The report cites a number of Department of Commerce studies that calculate for every dollar of fish that is landed in the Port, two to three times its value was attribute to the local economy. It also cites that for every commercial fisherman you send to sea, there are eight or more jobs that are created on land. The report estimates that with a modern facility, as identified in the EIR, fish landings would increase by about 33 percent. Direct jobs generated by the industry would also increase by a similar percentage, creating about 150 new jobs with the fishing fleet and fish handling. It would also provide an estimated 200 indirect jobs that the industry would support.” (Chris Martin, verbal comments)

Summary of Comments and Responses

C. Comment and Responses

1. General Comments and Letters on the Proposed Project

Note: The above information regarding the creation of jobs and economic benefits is noted, however, CEQA does not require an EIR to evaluate social and economic effects of a proposed project, unless they relate to a physical change in the environment (such as, causing growth and increased demand for water). The validity of the above referenced report for current conditions is uncertain since the findings of the report were based on projections made using 1987 data. Factors that cannot be controlled influence the fishing industry, such as, changes in regulations that effect the length of fishing seasons, fishing quotas, and of course the supply of fish which can fluctuate greatly.

“The preservation and expansion of the commercial fleet and the associated fisheries is, as you know, a top priority of the Waterfront Land Use Plan mandated by Proposition H. The fact that the rehabilitated pier and the associated fish handling facilities have been so well received is certainly a credit to the Port and to the associated fishing fleets.” (M. Toby Levine, written comments)

“First, it should be clearly understood that the Hyde Street Harbor project is and will be sorely needed at the size now proposed if the fishing industry is to thrive and continue its regeneration. With continued high level support by the Port and the City, Fisherman’s Wharf will, I believe, once again be a major fishing port on the West Coast.” (R. Miller, written comments)

“My family's company, Caito Fisheries, has been landing fish in San Francisco for over 100 years. Last year, we moved back to Fisherman's Wharf for the first time in decades. Our family invested hundreds of thousands of dollars into a new fishing receiving facility at Pier 45 . San Francisco should be very proud of the modern, state-of-the-art facility at the pier. It is truly one of the Nation's finest commercial fishing facilities .

Our company would not have made this type of investment that we have made in Fisherman's Wharf if we weren't confident in the pier's future as a center of Northern California fishing, commercial fishing industry .

Caito Fisheries is supportive of the building of a Hyde Street Harbor. While San Francisco fishing industry is backed on solid footing, a serious problem still exists. The wharf currently

Summary of Comments and Responses

C. Comment and Responses

1. General Comments and Letters on the Proposed Project

has the worst berthing facilities in Northern California. Other competing harbors have improved the berthing facilities, while ours remain old, unsafe and inadequate. We constantly hear from fishing boats, from which we buy fish, that the wharf does not provide adequate berthing facilities. During busy receiving time, fishing boats have to raft three or four boats deep, which causes damage to boats and makes boat security more difficult. Our business depends on attracting fishing boats to Fisherman's Wharf to sell their catch. While modern receiving facilities are now available at the wharf, the industry desperately needs new berthing that the Hyde Street would provide to ensure San Francisco continues to attract a regular supply of fish.”
(Jeannette Caito, verbal comments)

2. PROJECT DESCRIPTION

a. Objectives Of The Project Sponsor (Need For The Project)

Number of Boats in the Harbor—Will the Project Attract More Boats?

Comment

“First, the DEIR assumes that the vessels which would be accommodated by the new berths are those vessels which are now “side-tied or rafted” in the harbor. In fact, such side-tied or rafted vessels are mainly transients only occupying the space in the harbor for brief periods between fishing forays primarily during the herring season and do not occupy the harbor on any regular or continuous basis. ...there is no evidence in the DEIR to support the assumption that such transient side-tied and rafted vessels will in fact rent the new berth space upon completion of the Project, particularly at new higher rates. They pay nothing currently. What would prevent such vessels from continuing to side-tie or raft in the harbor on a seasonal basis when the new berths are rented to recreational boats? And even if evidence in the DEIR shows that there are a sufficient number of such boats to fill the proposed number of new berths. We believe that the facts would show that there are an insufficient number of existing commercial fishing vessels to fill the proposed new spaces.” (Laura Taylor, written comments)

“The existing facilities for the commercial fishing industry is sufficient. Looking at the current situation there are open berths now. There are also numerous boats which are not working boats at all. These spaces could be cleared to make room for additional boats if there even are any that need a harbor. The commercial fishing industry in San Francisco has changed dramatically. The biggest catches are those brought down in the trucks from Washington state which the Sunrisers see blocking the flow of traffic at 6:00 a.m. Mike Berline, in his point #20 from 1990, recognized that only 7 to 12 boats have left over the years to other ports such as Sausalito or Oakland and it is not anticipated that more boats will come if this project is built. The Port gave us a presentation of the project two weeks ago showing the need for more space due to “rafting”

Summary of Comments and Responses

C. Comment and Responses

2. Project Description

a. Objectives of the Project Sponsor

of boats next to each other. Those boats are herring boats and are only here for limited days for that season. Some of the first tier of boats the others were rafted to were not working anyway. Does the Port really want to risk the destruction of water quality, environment and wildlife with such a big project such as a new harbor to accommodate a waned fishing industry and to per chance bring back 7 to 12 boats? The Port admitted this is not even an income producing project for them.” (Lisa McCally, written comments)

“SERC's concern is that the DEIR is inadequate and fundamentally flawed because it is based on the false premise that the project will not generate increase used of the harbor. The DEIR fails to consider the host of impacts which must be considered. Therefore the DEIR should not be adopted or certified by the City.” (South End Rowing Club, written comments)

Response

The Port maintains that the existing berthing facilities at Fisherman’s Wharf are not sufficient to sustain the fishing industry in San Francisco. Fishing industry representatives expressed a need for modernized facilities at the EIR Public Hearing. The fish processing facilities on Pier 45 have been modernized and the tenants have expressed satisfaction with the results. However, the current berthing facilities are the same type that were in use over 100 years ago. They are undersized for some of the larger fishing boats and boat operators must climb ladders to access boats. Other commercial harbors or marinas use floating berths. The Port must also provide a modern facility if they are to be competitive and committed to retaining the fishing industry in San Francisco.

In terms of harbors, a 60-berth harbor is not considered a large project. Most new marina and harbor facilities are built with hundreds of berths, such as the 350 berths built at Pier 39 or the 500 berths built at South Beach. With the addition of 60 berths and side-tie spaces the Hyde Street Harbor would have a total of 176 boat spaces.

Summary of Comments and Responses

C. Comment and Responses

2. Project Description

a. Objectives of the Project Sponsor

In 1988 a feasibility study was performed by Moffatt & Nichol, AGS and Kwan Hemni which also drew on commercial fishing industry information prepared by Port consultant, Carol Brown. The conclusion was that a need existed for 51 permanent and 67 transient berths to serve the commercial fishing industry. This study defines an outer limit of demand for the harbor, based on commercial fish landings in San Francisco since 1988.

This study determined a need for 116 new berths which has turned out to be overly optimistic given more recent trends in the industry. At the time of the 1988 study, San Francisco fish landings were 21.8 million pounds. Yet in the intervening years, fish landings decreased and reached a historical low of 7.4 million pounds in 1994. In this period, the number of commercial fishing boats also declined. For example, per the Fisherman's Wharf Crab Boat Owners Association, there were only 14 active crab boats at Fisherman's Wharf for the 1994 season, down from over 50 boats in 1990. (*Source: Port Internal Memo from J. Davey to D. Hodapp, 5/16/96*).

While there has been a recent 1995 increase in fish landings at Fisherman's Wharf since the lease-up of the fish processing space on Sheds B & D, the increase is modest compared to 1988 data. The volume of fish landings represented in the 1988 data still represents an upper limit of growth which is not anticipated to be repeated because of the new fish processing activity in the renovated Sheds B & D or the proposed improvements to Shed C. (See page 11 of the EIR, Table 1, for a five-year history of SF Bay Area Commercial Fish Landings).

To the extent that the renovated fish processing facilities may attract new boats, Mike La Rocca of A. La Rocca Seafood has indicated that several boats that previously used the harbor had returned to the Wharf after the completion of the Pier 45 renovation. The proposed floating docks and increased berth space, in and of itself, is not assumed to attract new boats to Fishermans Wharf, nor will new fish processing space proposed for Shed C generate a significant number of new

SAN FRANCISCO COMMERCIAL FISH LANDINGS
Dept. of Fish & Game Statistics for Select Species (Table 17)

8-12-98 fishland wk4

Species	1988		1989		1990		1991		1992		1993		1994		1995	
	Pounds	\$ Value	Pounds	\$ Value	Pounds	\$ Value	Pounds	\$ Value	Pounds	\$ Value	Pounds	\$ Value	Pounds	\$ Value	Pounds	\$ Value
Anchovy, Northern	1,082,430	\$121,587	1,631,260	\$160,288	1,410,970	\$141,735	1,012,330	\$108,090	362,430	\$34,406	537,736	\$108,972	277,966	\$66,121	1,948	\$779
Hallbut, California	112,845	\$257,575	143,778	\$324,461	148,882	\$364,692	193,584	\$461,956	217,744	\$520,789	215,466	\$524,705	177,719	\$444,420	225,839	\$578,911
Herring, Pacific	12,322,200	\$3,203,750	12,836,200	\$2,960,990	14,164,300	\$5,970,420	12,712,800	\$6,904,990	10,535,500	\$7,436,200	5,653,710	\$1,412,920	3,215,630	\$1,620,700	5,476,640	\$5,247,730
Herring, Roe on Kelp	-	-	87,584	\$175,167	185,750	\$1,525,370	115,399	\$988,623	83,698	\$437,881	-	-	55,004	\$109,376	31,300	\$83,188
Lingcod	261,635	\$99,828	272,941	\$112,004	370,384	\$139,190	373,039	\$140,373	172,167	\$68,046	186,984	\$81,703	167,680	\$71,523	167,594	\$84,516
Rockfish, Bocaccio	425,466	\$166,872	329,177	\$114,674	837,369	\$260,555	500,301	\$161,642	345,582	\$116,437	205,006	\$67,254	126,544	\$49,118	158,702	\$64,378
Rockfish, Chilipepper	-	-	-	-	-	-	1,148,150	\$373,507	1,313,940	\$434,725	572,088	\$186,501	463,269	\$180,132	563,041	\$222,726
Rockfish, Unspecified	1,133,410	\$376,881	905,786	\$299,288	2,054,740	\$679,591	915,965	\$356,129	576,412	\$244,743	324,147	\$183,952	161,405	\$67,062	273,904	\$123,720
Rockfish, Widow	261,551	\$87,568	137,048	\$38,561	703,939	\$212,785	571,013	\$174,558	457,824	\$145,207	104,809	\$30,836	75,532	\$27,183	507,438	\$200,756
Sablefish	1,256,620	\$561,942	1,274,680	\$500,096	684,669	\$282,641	527,130	\$280,864	440,585	\$205,702	412,819	\$166,783	328,055	\$249,304	408,130	\$461,974
Salmon, Chinook	617,190	\$1,812,880	224,845	\$600,651	247,576	\$744,856	197,050	\$552,336	134,604	\$401,187	75,931	\$183,805	129,205	\$287,187	443,330	\$834,988
Sanddab	155,667	\$53,734	118,661	\$37,433	67,349	\$20,490	104,689	\$33,107	103,748	\$33,605	73,724	\$44,278	95,816	\$32,895	155,438	\$53,786
Sole, Dover	1,237,580	\$385,864	1,388,700	\$382,242	372,105	\$96,231	861,093	\$253,750	1,101,500	\$321,387	610,354	\$162,859	261,427	\$63,006	592,741	\$160,448
Sole, English	304,808	\$126,023	254,202	\$104,767	204,991	\$71,445	215,624	\$80,496	187,271	\$69,837	171,146	\$63,762	157,909	\$61,020	229,706	\$89,908
Sole, Petrale	292,471	\$204,120	198,216	\$149,276	147,632	\$115,633	187,477	\$149,261	165,349	\$124,626	157,330	\$119,104	138,874	\$115,354	156,776	\$141,584
Swordfish	1,941	\$10,253	155,777	\$540,048	71,376	\$256,043	94,299	\$392,853	17,983	\$62,373	48,038	\$162,195	41,433	\$150,460	72,738	\$289,382
Thornyhead	214,935	\$76,033	435,172	\$161,966	222,632	\$85,181	274,606	\$119,071	416,529	\$186,389	376,457	\$171,402	185,433	\$114,062	158,103	\$158,762
Crab, Dungeness	527,782	\$819,407	161,330	\$279,145	250,626	\$530,733	178,818	\$360,638	98,200	\$171,566	94,827	\$148,000	609,107	\$928,880	655,730	\$1,125,430
S F TOTAL	21,843,900	\$9,251,350	21,605,400	\$7,517,440	23,255,700	\$12,111,200	21,284,400	\$12,479,500	17,789,200	\$11,498,300	10,501,700	\$4,245,700	7,421,550	\$5,140,300	11,009,400	\$10,423,200

Summary of Comments and Responses

C. Comment and Responses

2. Project Description

a. Objectives of the Project Sponsor

berthing needs since boat access to the east side of the Pier is not feasible. The volume of fish handled and processed at Fishermans Wharf is increasingly brought in by truck, not by boat.

Although the harbor would give priority to commercial fishing vessels, in the event they do not fill the entire harbor, there is sufficient demand by recreational boats to fill any remaining berths. Financial responsibility dictates that new Port projects be feasible. Since the commercial fishing industry is cyclical and different fishing seasons cause fluctuating demand for transient berths, having the ability to fill vacancies with recreational boats helps the financial feasibility of the harbor.

Through increased management of the new harbor, the Port would encourage transient boats that currently side-tie to use the proposed harbor. While the policies have not yet been developed, the project provides for additional personnel. The new harbor master and the increased staff would be in a better position than at present, to enforce harbor regulations and to permit rafting and side-ties on an as-needed basis rather than as currently practiced. The Port would manage the use of the harbor under existing Terminal Tariff, Rule No 34, Section 8, which state that “commercial fishing vessels, historical commercial fishing vessels and fishing party boats shall be given priority over pleasure boats.”

Comment

“If the new berths are constructed, will they be filled by commercial fishing boats as is the stated Project Objective or will recreation and pleasures boats be the primary users of the new spaces? Obviously, the nature, purpose and objectives of the Project would differ greatly depending upon the answer to this question. If, as the DEIR states, due to the seasonal nature of the commercial fishing industry, "recreation boats" will have the opportunity to temporarily use these spaces (DEIR, page 2), the DEIR must identify the extent to which this will occur particularly in light of

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the decline in the number of commercial fishing boats in the Harbor. If the Project will ultimately be occupied predominantly by pleasure craft, the fundamental nature of the Project would not be for commercial fishing uses and the stated objective would be inaccurate. Such a fundamental change in the Project would result in a host of additional environmental impacts to be considered as well as additional land use planning issues and permitting requirements and approvals, including Proposition H and M and the provisions of the Northern Waterfront Special Use District that are designed to protect the maritime character of the Project area, all of which must be considered in the DEIR.”

“So, if contrary to the DEIR's stated assumption, the new berths will not be filled by the existing side-tied or rafted fishing vessels, it follows that such berths will be occupied by other types of boats which by any analysis would result in the generation of new and increased uses of the harbor by pleasure and recreational boats. The DEIR is required to evaluate the impacts of such potential new and increased use of the harbor.”

“If there are not or will not be a sufficient number of commercial fishing vessels to fill the new spaces, the DEIR is required to evaluate the impacts of any alternative users.” (Laura Taylor, written comments)

Response

The Port's stated objective of the proposed Hyde Street Fishing Harbor is to berth fishing boats. To help insure that pleasure craft would not be the primary users, the Port charges pleasure craft a higher berth rate. The Port's Tariff, Rule No. 34, Section 8, also gives fishing boats priority to berths, and the size of the proposed harbor under the preferred alternative would contain 60 total berths, designed to meet the fishing boat demand.

Upon opening, the Port expects the 60 berth Hyde Street Fishing Harbor would be used by fishing boats from 50% to 100% of the time, depending on the time of the year, with an average throughout the year of roughly 70%. This would leave some

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room for growth as improvements at Fishermans Wharf attract the return of fishing boats from other harbors in the region. As this growth takes place, fewer pleasure craft would have access to the Harbor. The Port provided by the following table in response to a request for estimates of current harbor use and projected future use.

HYDE STREET HARBOR FISHING BOAT DEMAND

Type of Berth	Fishing Boats Current Demand	Number of Berths	Percent Occupied
Permanent Berth (year round)	25	40	
Transient-Herring Season (Dec-Feb.)	35	20	
Peak Season Subtotal	60	60	100 %
Permanent Berths (year round)	25	40	
Transient-Summer Season (June-August)	18	20	
Summer Season Subtotal	43	60	72 %
Permanent Berths (year round)	25	40	
Transient-six months	6	20	
Non-peak Subtotal	31	60	52 %
Permanent Annual Average	25	40	
Transient Annual Average	16	20	
Total Annual Average	41	60	69 %

Source: Port of San Francisco, October 1996

Comment

“The Project Objective for the Harbor Expansion is flawed. CEQA requires the Project description to set forth the objectives sought by the Project (CEQA Guidelines, §15124(b)). The DEIR states that the objective of the Port’s proposal “to construct a new 60 space floating dock harbor to add to the existing 116 berth (99 berths and 17 side-tie spaces) commercial fish harbor at Fisherman’s Wharf...” is to “*accommodate the unmet demand for berthing of the existing commercial fishing industry**(emphasis added)...” (DEIR, page 1).”

This “unmet demand” is not adequately documented in the DEIR and cannot be demonstrated. In support of the stated objective the DEIR states that “. . . the Port *believes* that the existing facilities at Fisherman's Wharf and Pier 45 are insufficient to meet both existing and future fishing industry needs” (DEIR, page 2) and that existing facilities are insufficient to “accommodate the unmet demand for berthing of the *existing* commercial fishing industry . . .” (EIR page 1, but fails to set forth the facts upon which the Port bases such belief). To properly evaluate the proposed Project this “unmet demand” must first be quantified and analyzed in order to demonstrate how the Project was designed to meet this demand.

How many commercial fishing boats occupy berths in the existing harbor facility? If all “non-qualifying boats are removed from the existing harbor how many new spaces would be created? What demand for new berths is created by rafted, side-tied and longer, overhanging boats? How many “longer boats” overhang their existing berths? How often are 40-plus boats rafted and 12 to 14 boats side-tied? Is this a seasonal phenomenon? What type of fishermen raft and side-tie? Do they demand berth space?

The DEIR fails to note the length of stay of these boats, many of which do not even overnight in the harbor. How many of the rafted and side-tied boats are transient, out-of-state and temporary users? The seasonal nature of the fishing industry must be set forth and analyzed.

“Are the herring boats and other seasonal boats referred to in the DEIR and Initial Study (DEIR page A-3) expected to lease the new marina berths or would they, as transient, mainly out-of-state, temporary users, continue to raft up to other boats and side-tie? Is there any information to support the claim that the alleged 40-plus rafted and 12-14 side-tied boats would actually lease berths in the new marina? Have any current studies, economic analyses or market tests been performed which assess the economic viability of the proposed new berths in light of the fact that they will be considerably more expensive than the existing berths?

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What are the rates charged for the existing harbor facilities? At these higher rates, is there sufficient commercial fishing industry demand to fill the new berths? The marketability of the new marina must be demonstrated.” (Laura Taylor, written comments)

Response

In 1988 a detailed feasibility study was undertaken by the Port and Moffatt & Nichol Engineers which projected the need to build a Harbor with a total of 116 berths. Based on the what has actually occurred in the harbor since the 1988 study the projections proved to be too high. The Port has not conducted another in-depth study of Bay area fishing harbors. However, based on a combination of field surveys, analysis, and the practical hands-on experience of Port personnel, the Port believes that a 60 berth harbor is sized to meet the near term demand of the fishing industry. (Port Memo from J. Harvey to D. Hodapp on May 16, 1994; Hyde Street Harbor Fishing Boat Demand August 1996)

Transient boats are expected to lease berths in the new Harbor. The higher monthly berth rate at the new Harbor, estimated at \$4.25 per linear foot, is in line with the rates charged at other marinas which serve fishing boats: Spud Point in Bodega charges \$4.21 and Pillar Point in Half Moon Bay which charges \$5.20. Since modern berthing facilities are the norm at other harbors, rates of \$4 to \$6 per linear foot are commonly paid by fishing boats. Also, the proposed berth rate for the Hyde Street harbor is well below the rate at nearby marinas that cater to pleasure craft: Pier 39 Marina at \$7.72 per month per linear foot and South Beach Marina at \$7.48.

Given a rate for fishing boats which is considerably less than other nearby marinas, and the fact that the new Harbor will provide an up-to-date berthing system similar to other harbors with floating docks for easy access, secure entry to the boats, restrooms, a pump-out, convenient access to the Golden Gate to get to the fishing grounds and to the fish processors on Pier 45, the proposed 60 boat

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facility is the appropriate size for the anticipated demand. The proposed Harbor has been designed to accommodate larger berths for commercial fishing vessels. Typical berths vary in length from 40-50 feet.

The monthly rate for the existing berths in the lagoons for fishing boats ranges from \$1.00 to \$2.00 per linear foot, and for pleasure craft the rate is \$3.50. Berth holders receive very few services for this low rate, such as access by means of climbing up and down a ladder, less secure berths, and tying-up to a pile rather than a cleat in a floating slip.

Comment

“The DEIR contains no information addressing the Project's current economic characteristics (CEQA Guidelines §15124(c)).

In light of such dramatic changes, the 1988 Study is obviously not relevant to the currently proposed Project and a current economic analysis must be accomplished and considered in the DEIR to demonstrate the existing and future demand for new berthing spaces for commercial fishing boats.” (Laura Taylor, written comments)

Comment

“Nearly all commercial fishing facilities in Oakland and Marin County have shut down, leaving San Francisco the only game in town (the whole Bay Area). The Seafood Producers; Cooperative, a fishermen owned co-op, has come to California and is now headquartered at Morgan fishing Pier 45, bringing fish from all over the state to the wharf for processing and distribution. There are approximately eight salmon trollers in the co-op in this first year of California operation and the indications are that the number will probably double (or more) next year. Several fishermen from the wharf are members of the co-op. When the fish and the fishing move north, probably in early June, many if not most of these co-op boats will be operating from San Francisco. They will need the facilities that the project will provide. The economic benefits

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are obvious. The City and the Port, as well as the processors and those who deal with them will prosper. It is also highly likely that the co-op will be in the dungeness crab and black cod businesses later this year.” (R. Miller, written comments)

Response

The fisherman owned co-op was formed in 1996 and is using the fish processing space of an existing tenant in Shed B on Pier 45, Morgan Fish. The fish processing facilities in Oakland and Sausalito closed after this EIR was initiated. Thus, this information was not available when assessing demand for the harbor, and any increase in boats because of the fisherman’s co-op is considered by the Port to be speculative since the co-op has been in operation less than one year.

Comment

“The project has been trimmed down to 60 berths. There is now, and will be in the foreseeable future, a need for more and larger berths. Because of the reasons stated above and some other causative factors not necessary to state here, the fishing fleet and fishing activities are growing and will continue to grow at the Wharf if the facilities are there to accommodate the operations. Indeed, the processors who have made such a significant commitment and investment in their new facilities need, and I believe are counting on, the completion of this project.” (R. Miller, written comments)

Response

As fishing industry uses increase at Pier 45, it is conceivable that activity could reach the outer growth limit represented by 1988 SF Fish Landings. In that case, the demand for the harbor would be 118 spaces, as analyzed in the Moffatt & Nichol Study. The original 88 berth harbor alternative is analyzed in this document (page 177, Alternative A-Hyde Street Fishing harbor, Maximum Expansion). As with the proposed harbor, no significant environmental impacts are identified for Alternative A.

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Comment

“Page 1 refers to the Burton Breakwater built in 1986 and also make reference to the Port's objectives for the harbor. Please list another objective for the harbor improvements as fulfilling an agreement with the federal government. This stems from the Agreement between the United States of America and the City and County of San Francisco, dated November 13, 1984, relative to federal funding for the breakwater. Among other provisions, this Agreement sets forth that the City an County of San Francisco "Shall provide and maintain adequate berthing areas", as well as "provide guidance and leadership to encourage the development of onshore facilities necessary to support the commercial fishing industry at Fisherman's Wharf, including the development of additional fish-processing plants." Under this Agreement, the City and County of San Francisco have a contract with an obligation to the federal government to develop additional berthing and modern processing facilities. The basis for the Congressional action authorizing funding for the breakwater project was the future development of an adequate fishing harbor and facilities.

Page 2 makes reference to the inadequate and run-down harbor facilities at Fisherman's Wharf. The California State Coastal Conservancy published a report title "Commercial Fishing Facilities in California," dated August 1984, which surveyed the lack of facilities at Fisherman's Wharf. In that report all of California's fishing harbors were analyzed. Despite the fact that Fisherman's Wharf had more handlers and distributors than any other of California's 26 ports accommodating commercial fishing boats, its harbor and support facilities were the most inadequate in the state, lacking berthing, gear storage, waste disposal sites haul-out facilities, and direct, secure access to vessels. Though the new, state-of-the-art fish handling facilities on Pier 45 are a considerable improvement, the harbor itself still is a sub-standard fishing port with 19th Century infrastructure.” (Christopher Martin, written and verbal comments)

Response

Comment noted. The above information supports and further clarifies the description on page 2, paragraph two, of the EIR, under Objectives of the Project Sponsor.

Comment

“However, it has recently become apparent that the expansion of the Hyde Street Harbor is intended to provide berthing space as much or more for pleasure craft as for additional fishing boats. Indeed, the Dolphin Club has been advised that Cal Boating's role in the financing of the Project has been made dependent on occupancy being made available for recreational boats. This fact was confirmed in a telephone conversation between a representative of the Dolphin Club and Dan Hodapp of the Port. (Margaret Reilly and Roger Beers, written comments)

“By contrast, the Port's Draft Waterfront Plan would allow recreational boats to co-occupy the existing and new berths since the traditional fishing fleet is experiencing economic set back and, presumably is diminishing. We understand that few, if any, of the "rafted up" commercial vessels currently pay rent to the Port. What is the likelihood that these vessels would begin paying rent and occupy new berths? Would nonpaying vessels be allowed to remain "double stacked" and rafted up, or would they be evicted? What is the predicted volume of vessels using the project area on a temporary basis, and what operating procedures would apply to manage this vessel traffic? How many of the estimated 500 herring boats would be permitted to use the project area and under what operating procedures? Would the Port's operating procedures continue to permit chronic patterns of overcrowding?” (Margaret Reilly and Roger Beers, written comments)

Response

Based on the Port's field survey and estimate of demand, it is anticipated that the majority of berths would be occupied by commercial fishing boats at least six months of the year under existing demand, and longer as fishing boats return to lease space in the Harbor. (See above table C&R pg 14, Hyde St. Harbor Fishing Boat Demand, October, 1996).

Thus the Port would follow its existing Terminal Tariff, Rule No. 34, Section 8 which states that “commercial fishing vessels, historical commercial fishing

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vessels and fishing party boats shall be given priority over pleasure boats”. The Tariff also states that “pleasure boats will only be accommodated to the extent that berths are not occupied by commercial fishing vessels, fishing party boats or historical commercial fishing vessels and, in addition, that there are no commercial fishing vessels, fishing party boats or historical commercial fishing vessels on the waiting list”. Therefore, Hyde Street Harbor is intended to serve fishing boats, not pleasure craft. If recreational boats were to lease space from the Port, they would be subject to the same rules and management policies as fishing boats. Potential impacts would be similar to those discussed in the EIR for fishing boats.

The permanent berths would consist of finger floats varying in length from 40-50 feet in a double berth configuration. These permanent berths would be leased on a monthly basis. Transient berths would consist of 500 linear feet of stern-to mooring to accommodate 10 boats with a bow line on the floating dock and a stern line to a mooring pile; and 800 linear feet of side tie docking to provide flexibility in accommodating roughly 10 transient and oversized vessels. Transient berths are typically leased for a period ranging from a portion of one day to several days.

As described in the response above, the Port’s leasing prices at Fisherman’s Wharf would be competitive with other harbors in the Bay area, and because the Wharf serves as the major hub of activity for fish trading, fish processing and restaurant business, Fishermans Wharf is expected to continue to attract commercial fishing boats. With the proposed improvements, boats that come to the harbor to unload fish at the Pier, are anticipated to be prime candidates for use of berth space.

Comment

“Page 1 - please explain why side tie and rafting are allowed at all. Will this be prohibited if project is implemented. Also please explain configuration of inner and outer harbor docking when project complete. It doesn't come through here. Show area where current side tie and rafting on map of current conditions.

Page 2 - Why does Port believe existing facilities are insufficient to meet existing and future commercial fishing needs?

-“there may be time” recreation boats. Please quantify in time and number. What types?

-“parking for boat operators” at Hyde Street - how will this be regulated so that it is not abused by others?

-at least once in text it would be helpful to give geographic ID for Piers A & C - east side of Pier 45.

Page 3 - last sentence - parking for whom? (Sue C. Hestor, written comments)

Response

The aerial photograph shown in Figure S1 on page S-3 of the EIR is the best depiction of actual boats in the Harbor. Boats are ‘side-tied’ when the side of the boat parallels the floating dock or pier that it is tied to. Boats are stern tied when the bow of the boat is tied to the floating dock. Rafted boats are anchored out in the Harbor. Use of the Harbor by commercial fishing boats is seasonal, directly related to fishing seasons. (See table on page 14 of C&R regarding the number of permanent and transient boats in the harbor). Transient boats are in the Harbor for short periods of time, depending on fishing conditions. The Port allows transient use of the Harbor to provide access by boats for off-loading fish to the commercial fishing industry at Fisherman’s Wharf.

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In response to the question about the time of the year when berth space may be available for recreational boat use, the following sentence is added to the EIR text on page 2, first paragraph:

“This is most likely to occur from August to December when transient fishing boats are fewer.”

The size of these boats is unknown, however, the depth and size of the Harbor would restrict very large boats. It is most likely that boats would be 30-40 feet in length. There could be as many as 29 recreational boats during the four-month period of low fishing boat use.

In response to the question about parking on the Hyde Street Pier and at the back of the building on 490 Jefferson Street, a sentence is added to the end of the second paragraph of EIR text on page 2:

“Parking stickers would be issued to fishing boat operators for use of parking at these locations.”

The first sentence of the third paragraph on page 2 of the EIR is revised to:

” in the existing Sheds A and C on the east side of Pier 45”.

In response to the question about parking in Sheds A and C, the EIR text on page 3, second to last sentence, is revised to clarify that parking would be

“for fish processors and employees of lease holders in the public event space.”

Side tie and rafting are permitted to accommodate the fishing boats that wish to be based in Fisherman’s Wharf, and boats which deliver to fish processors located in Fisherman’s Wharf. The Port supports the fishing industry and tries to accommodate rather than turn away fishing boats.

Existing facilities are insufficient because the only berths available for fishing boats at the Wharf are based on a 100-year old design of tying-up to piles and going up and down ladders as opposed to the current standard at other fishing

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harbors and marinas which use floating berths that are easier to access and secure; provide disabled access; provide expected amenities such as water, electricity, and storage to each berth; and provide larger berths to accommodate the newer and larger fishing vessels.

It is anticipated that parking for boat operators would be regulated through signs and permits so that only berth holders can use the parking, and others would be towed. This is a similar arrangement that is used at South Beach Harbor.

b. Proposed Project (Harbor)

Comment

“At this time it appears that the project will block vessels currently berthed at the Hyde Street Pier from being moved to restoration facilities for periodic drydockings. The proposed project must allow adequate room for the vessels to be moved.” (William G. Thomas, written comments)

Response

The design layout for the harbor considered and allows for access to the historic ships.

Comment

“San Francisco Maritime NHP is developing a "scene" depicting an historical waterfront pier. The report does not adequately discuss the visual impacts of the adjoining proposed project.” (William G. Thomas, written comments)

“On page A.3 the report does not take into consideration previous discussions held between the Port and San Francisco Maritime NHP regarding a common access between the properties for fire safety and visitor access/egress.” (William G. Thomas, written comments)

Response

The Harbor has been used historically for commercial fishing activities and would continue to be used primarily for this purpose with the proposed project. The addition of a floating Harbor would be visible from some viewing points on the Hyde Street Pier and historic boats on the east side of the Pier. The presence of fishing boats moored in the Harbor would not change the visual character of the Harbor and would be in keeping with the historic character of the area.

At this time there is no formal understanding that would allow fire safety ingress/egress between the Hyde Street Pier premises and the adjacent parking lot/public access area of the Hyde Street Harbor project. No specific design has been developed yet, however. Visitor access over the same area could possibly be allowed in the future.

The following sentence is added to the EIR, page 21, under Harbor Service Facilities:

- Fire safety ingress/egress from Hyde Street Pier would be permitted under an agreement of the Port with National Park Service.

Comment

“We do have one serious objection to the plan as proposed. The designers of the plan, as is all too often the case, have not bothered to consult with the fishing industry as to the best way to design the improvements so as to be compatible with overall fishing operations in the area and the EIR doesn’t even mention the problem. The design of the project places berthing much too far out into the main basin and will cause no end of trouble. The main basin is now and will be in the future the main staging area of the fishing fleet, and local transients. When numbers of boats arrive or prepare to leave all at the same time, as is often the case, they go into a holding pattern in the main basin, waiting to off-load, get ice, bait and supplies, get fuel and oil, etc. Weather conditions, marketing situations and other factors are all causative to the creation of congestion and the need for adequate staging area. The plan must be redesigned to satisfy this requirement or there will be massive boat traffic jams and the whole thing will self destruct.”
(R. Miller, written comments)

Response

On August 26, 1996, Port representatives met with Mr. Miller, representing the SF Crab Boat Owners Association, and Michael Bell of the SF Maritime Historic Park to review the maneuvering area in the harbor for fishing vessels and the historic ships. As a result of this discussion, Moffat & Nichol refined the design

layout of the harbor, which is added to the EIR as Alternative A-1, in response to this comment. Messrs. Miller and Bell concurred with this layout.

ALTERNATIVE A-1 HYDE STREET FISHING HARBOR, DESIGN OPTION

In response to the request by the SF Crab Boat Owners Association and the SF Maritime Historic Park, the Port (working with Moffat & Nichol Engineers) has developed a design option for the layout of the proposed floating berth harbor (Figure 19-A). This design option would provide berth space for 60 boats (compared to the proposed design that provided 40 berths, plus 10 side-tie and 10 stern-tie spaces). The design option would not have dock space for side-tie or stern-tie boats. The linear design would extend the floating dock further to the north than the proposed design, and would provide an additional 100 feet of space in the Main Basin (390 ft. compared to 290 ft.) between the floating dock and Pier 45, thus accommodating for the boat congestion during peak commercial fishing boat activity in the Harbor. A floating barrier to prevent debris from floating from the Harbor to Aquatic Park would be added between the Harbor and Hyde Street Pier, immediately east of the Eureka dolphin. This would allow the NPS adequate space to maneuver the Eureka for maintenance. Impacts for this design option would not differ from those discussed in the EIR for the proposed Hyde Street Fishing Harbor.

Comment

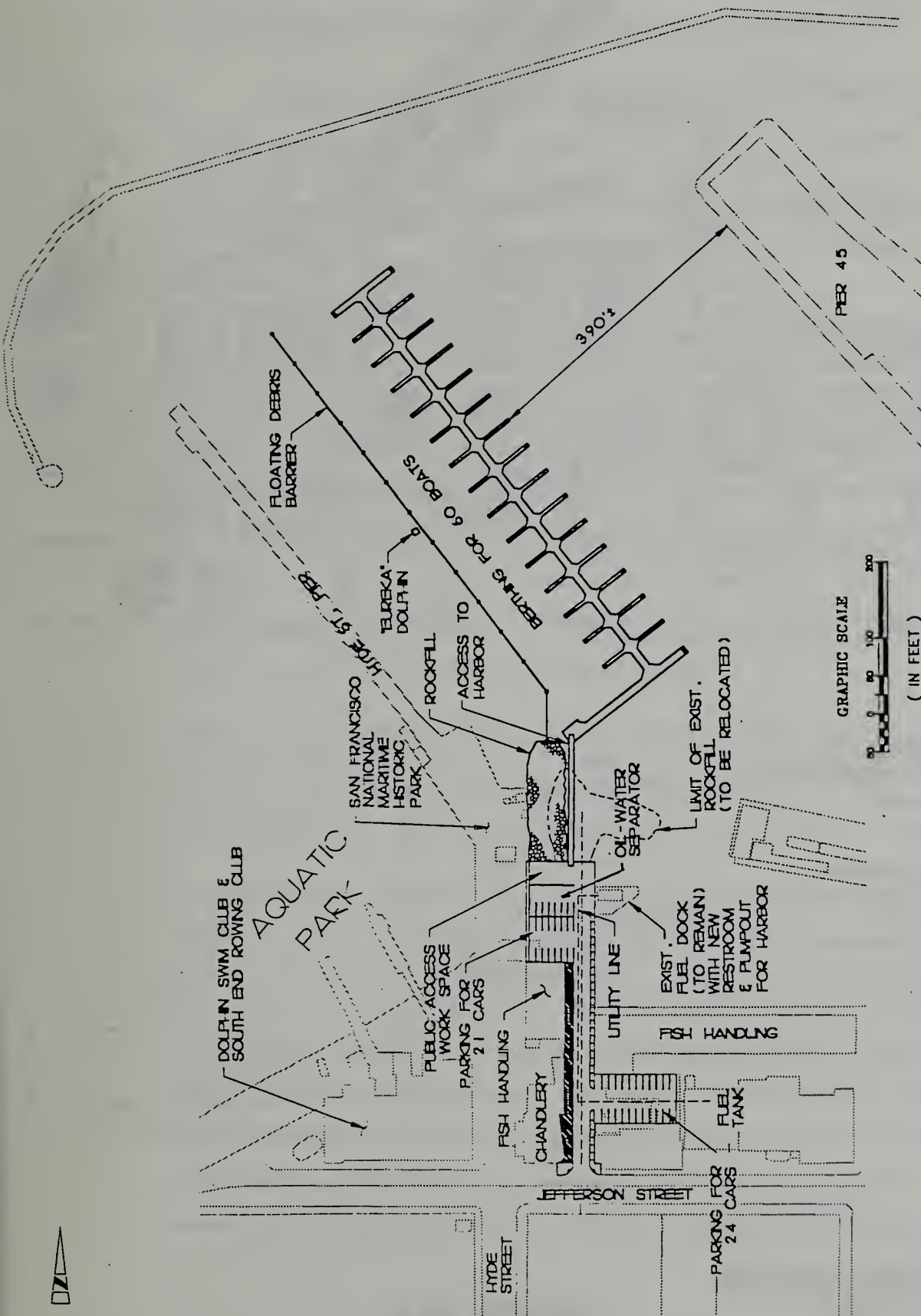
“Page 5 -map “Presidio Hill” “Marin Peninsula?”

Page 6 -there is no map in the DEIR that sets out clearly the boundaries of the various jurisdictions, e.g. the Port Property, Rec Park jurisdiction, federal jurisdiction, let alone the boundaries of Aquatic Park, The National Historic Park. All of this is very confusing and the text refers to these areas, but you can't find them on a map. Please show all boundaries clearly.

Omits Pampanito. “J” should have a key on map, not just figure out from text.

Page 7 -“transient vessels” using harbor - for how long at a stretch?

Page 8 -This is supposed to show rafting? The title is at the top of figure, but another “title at bottom.” Very poor labeling and it is hard to tell “rafting” from this picture. I looked at it a number of times before I figured out that was what I was supposed to see. Poor - come up with another picture and better description on this page.



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HYDE STREET FISHING HARBOR

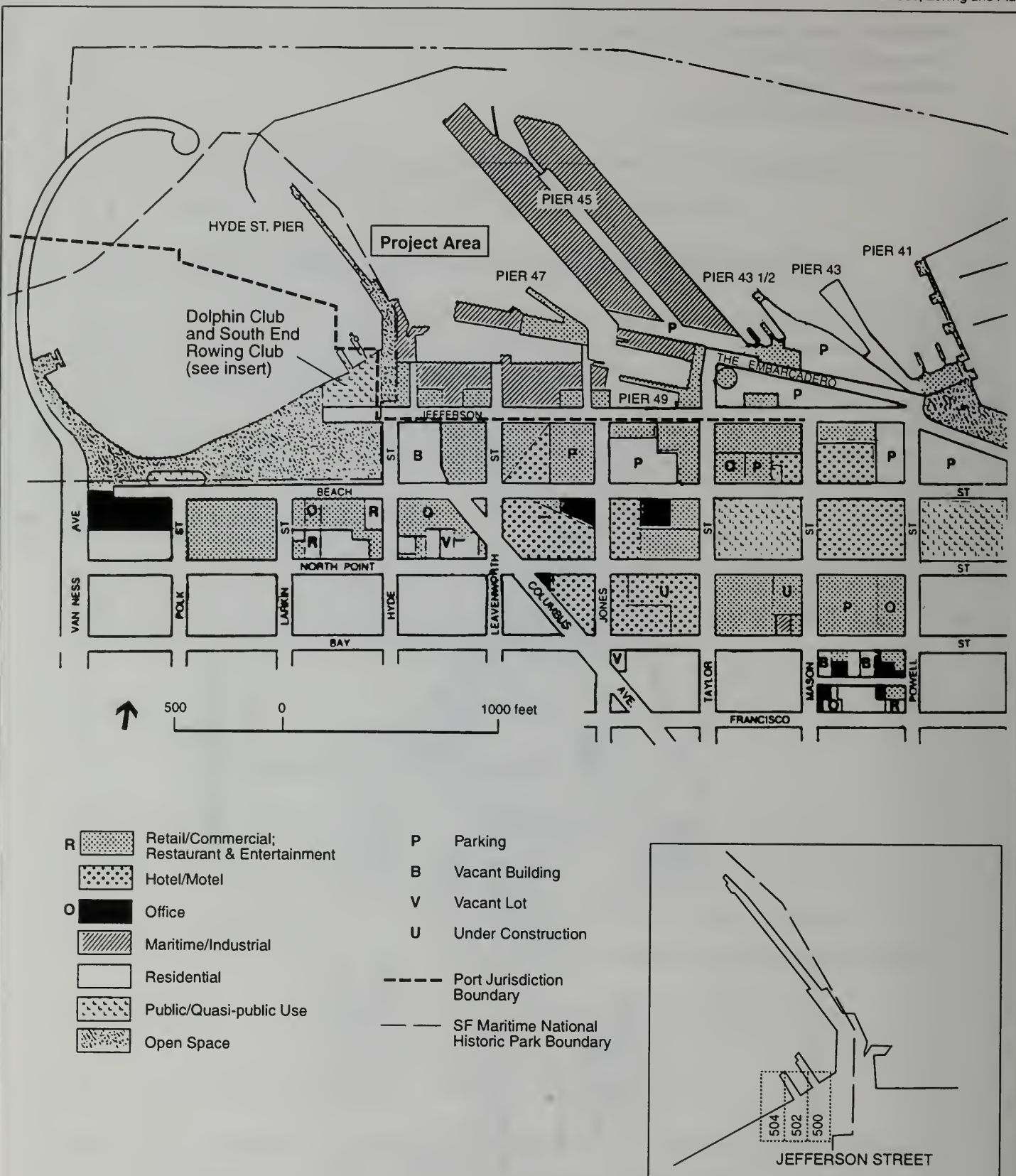
Hyde Street Fishing Harbor, Design Option

DATE:

MOFFATT & NICHOL
ENGINEERS

AUG 96

FIGURE



Page 9 - last full paragraph - are all the leases in B&D exclusively fish processing?

Page 10 - Fish alley on seawall lots - does this mean “is located on” lots, “runs adjacent to” lots?

Page 114 - what about handling practices in Fish Alley?”(Sue C. Hestor, written comments)

Response

Figure 1, page 5, is revised to delete the word ‘peninsula’ after Marin, and ‘hill’ after Presidio.

Jurisdictional boundaries are shown on Figure 9, page 36, in the Land Use Setting Section. These boundaries are also added to Figure 2, page 6. The parcels (#500, 502, and 504) under the jurisdiction of the San Francisco Recreation and Park Commission are cross-hatched. The letter ‘J’ is a designation for ‘wharf’. This is added to Figure 2. The Pampanito is moored on the east side of Pier 45 and is referred to on page 9, third sentence, second paragraph.

‘Transient’ means that these vessels are in the Harbor for brief periods of time (days rather than weeks or months) and do not have a lease with the Port.

Clarification is added to the text on page 7, paragraph 3, of the EIR.

The photos on page 8, Figure 3, have been replaced with photos that more clearly show boats tied to each other and rafted in the Harbor.

The current leases in Sheds B and D on Pier 45 are not all fish processing. Some are related uses. Fish processors (H&N is an example) have laboratory-type interiors required for food preparation. Most tenants in Sheds B and D are Fish Receivers and Wholesalers. Receiver’s are licensed to receive fish off of boats and Wholesalers get fish primarily from trucks. The fish is repackaged for distribution to restaurants and markets. Roughly 2,000 square feet in Shed D is

Figure 3 Rafting of Boats in Harbor



SOURCE: THE DUFFEY COMPANY .

Fisherman's Wharf Hyde Street Harbor & Pier 45, Sheds A and C,

C&R 28a

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b. Proposed Project (Harbor)

leased to Polar Ice for supplying the fishing industry with ice; roughly 14,000 square feet in Shed D is for fishing gear storage; and roughly 6,300 square feet at the front of Shed B has been reserved for a business opportunity that could be solicited through a Request for Proposals.

Fish Alley is located on lots bordered on the north by a seawall, commonly referred to as a 'seawall lot'. Fish handling activities along Fish Alley are discussed on page 37 of the EIR. No changes are proposed by the Port for Fish Alley, therefore this activity is discussed under existing uses adjacent to the proposed project site to orient the EIR reader to other activities in the area.

Comment

"Page 15 - Figure 10 labels Inner Lagoon and Outer Lagoon. Inconsistent labeling. Figure 9 calls Inner Lagoon, "Pier 49." On this map the boundaries of Maritime Museum, leasehold to swim/row clubs should be added.

Page 18 - Has the port thought through and planned for all disability access requirements and area they already incorporated into the planning?

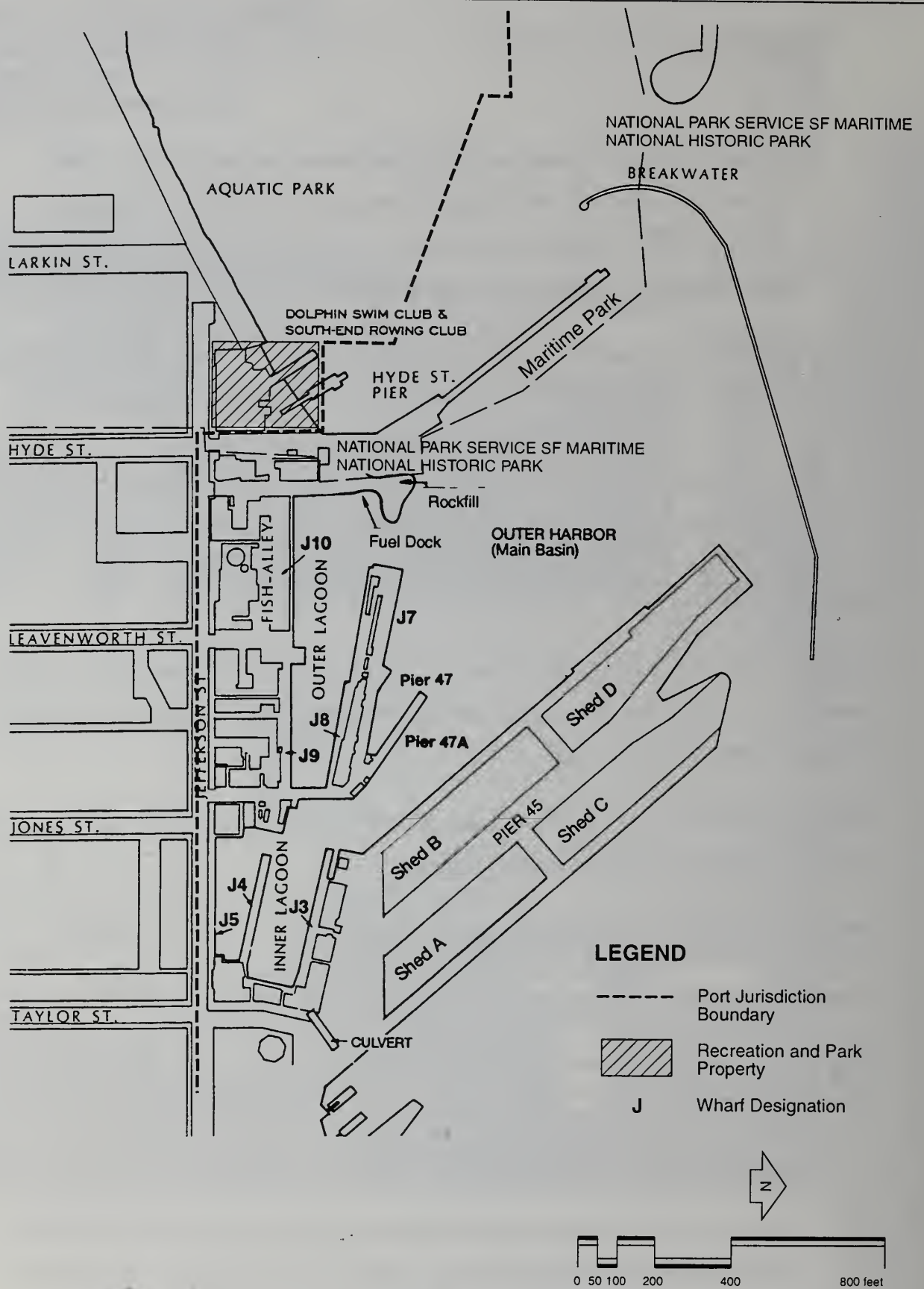
Page 19 - I had a hard time understanding this drawing.

Page 20 - I can see the improvements 1, 2, and 4, as well as on Figure 6. Can't find the others.

Page 22 - last paragraph - parking for whom? Is this allowed under BCDC on fill? (Sue C. Hestor, written comments)

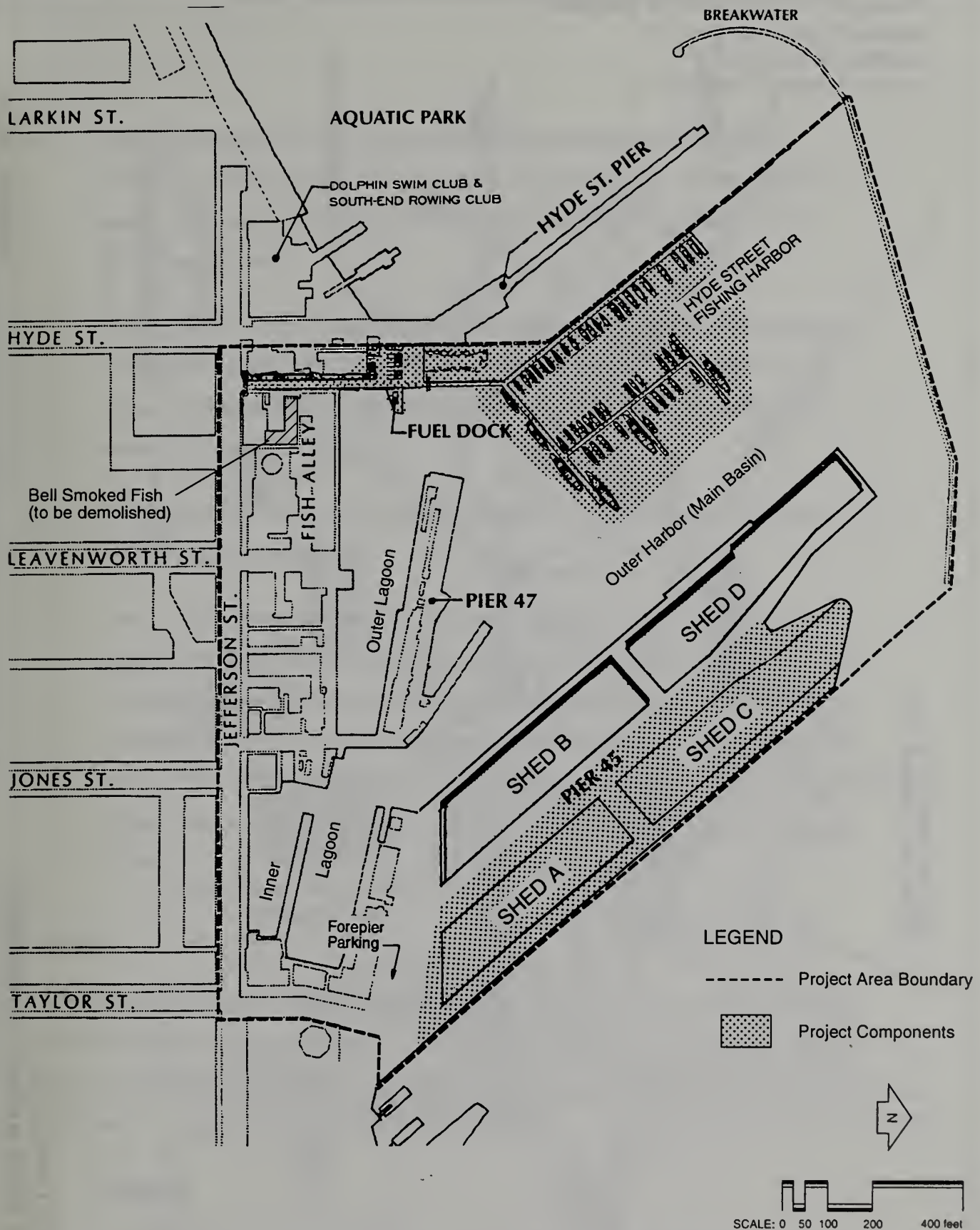
Response

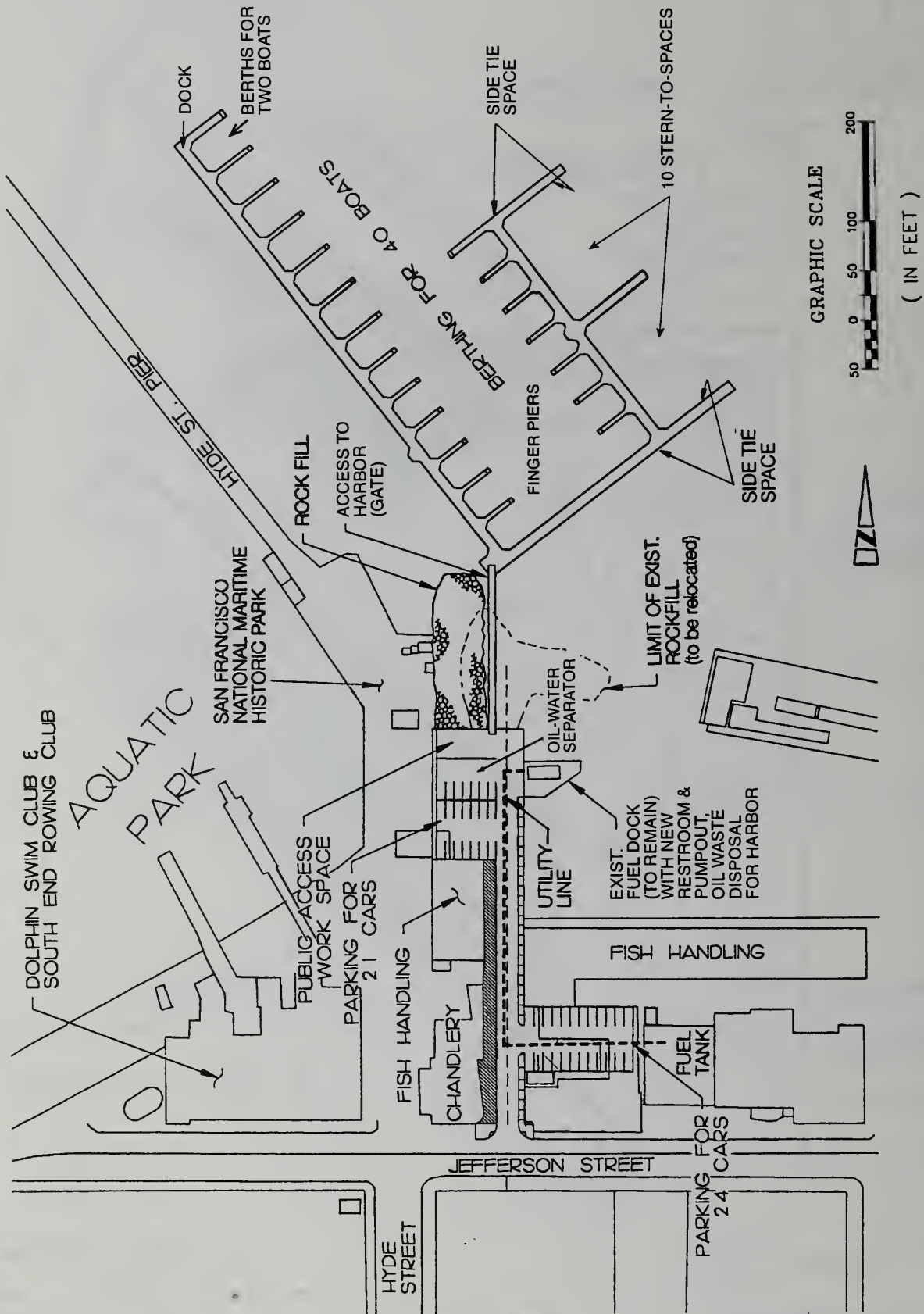
Figure 5, page 15 is revised to add Inner Lagoon, Outer Lagoon and Outer Harbor (Main Basin), consistent with Figure 2, page 6 Figure 10, page 41. The reference to Pier 49 is deleted from Figure 10. Boundaries of Maritime Park and the Port jurisdiction have been added to Figure 2, page 6, and Figure 9, page 36.



EXISTING SITE PLAN

FIGURE NO. 2





**PROPOSED PROJECT
HARBOR BOAT MARINA COMPONENT**

FIGURE NO. 6

Access for disabled persons is part of the design for the proposed project restrooms, building space in Sheds A and C, and along aprons and Piers (without curbs). Proposed improvements would meet Americans with Disabilities Act (ADA) requirements.

Figure 7, page 19 shows a plan elevation and section of the floating berth design to illustrate that the dock fender (skirt) would be almost two feet below the surface of the water to help capture floatables and surface contamination from leaving the Harbor.

Reference to the location of the security gate and oil waste disposal facility are added to Figure 6, page 16.

Text is added to page 22 clarifying that parking in Sheds A and C would be for tenants in all sheds on Pier 45, including fish processors in Sheds B and D. This is consistent with BCDC policies for maritime uses and public access. Parking at the berth entrance and at parking lot near Jefferson would be reserved for harbor users. BCDC allows parking within the shoreline band when there are no suitable upland locations. Parking on Pier 45 would be for uses on or in immediate vicinity of Pier 45.

Comment

“A "work dock" mentioned in the project description (DEIR page 20) is not described in sufficient detail to allow for evaluation of its environmental impacts (as required by CEQA guidelines, §15124) particularly its potential impact on swimmer safety.” (Laura Taylor, written comments)

Response

The following text is added to the last bullet on page 20 to describe the combined work dock/public access area on the Hyde Street Pier dock area:

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b. Proposed Project (Harbor)

The work dock area would include space for public access, a hoist and net roller. The 30' x 90' area would be used to transfer supplies from boats, layout and repair fish nets and fishing gear.

The harbormaster would be responsible for dock supervision. There are no safety issues related to the work dock activities that would affect swimmers in Aquatic Park. There are no current plans to share the work dock area with NPS operations.

Comment

“On page A.23 the report discusses the relocation of park structures on Hyde Street Pier. Since changes have recently been authorized please review this section to assure that the moves mentioned are still necessary.” (William G. Thomas, written comments)

Response

Page A. 23 is part of the Initial Study completed for the project in 1994 and the DEIR updates information from the Initial Study. The Port is not proposing to move, relocate or in any way change the existing wood structures on the San Francisco Maritime National Park lease space on Hyde Street Pier. The proposed project no longer includes construction of the Harbor Master building that would effect the use of Hyde Street Pier. See Figure 6, page 16 of the EIR for a layout of the proposed project.

c. Proposed Project (Pier 45)

Comment

“Will new leases on Pier 45 increase the square footage available for seafood handling and processing? Will any operating limits be placed on the quantity of seafood permitted to be landed, handled and processed? In short, the project description leaves one entirely guessing about the increased volume of seafood landing and handling that this project will permit.

(Margaret Reilly and Roger Beers, written comments)

“I also understand that the project sponsor will submit an additional alternative for Sheds A and C on Pier 45, which will provide for fish processing and fish handling, as well as gear storage. I support that.” (Chris Martin, verbal comments)

Response

The proposed project in the DEIR did not assume any increase in the square footage of space in Sheds A or C on Pier 45 for fish processing. Since the time of publication of the DEIR, however, the Port has modified the proposed uses of Sheds A & C (in response to recommendations of the Pier 45 Advisory Group) to include 32,000 square feet of space for fish processing/handling. There would be no operating limits placed on the quantity of seafood permitted to be handled or landed. This alternative is described in Section D, STAFF INITIATED TEXT CHANGES AND ERRATA of the Comments and Responses, Page C&R 232. No significant environmental impacts have been identified for this change to the proposed project, and information about potential water quality, odor, traffic, and parking impacts from fish processing is addressed in the EIR. This change does not represent a substantial change to information in the EIR that would require recirculation for public review and comment.(CEQA Section 21092.1)

Comment

“The National Maritime Museum Association (NMMA) is a non-profit organization dedicated to maritime preservation and education. Since 1982, the Association has independently operated the WWII submarine USS Pampanito, (SS-383) a National Historic Landmark, at Pier 45, Shed A. The Pampanito is one of the most popular historic vessels in the country with over 250,000 visitors annually and has become a tourist destination at Fisherman's Wharf.

We would like to go on record to state that the draft EIR does not reflect our current operations at Pier 45-A nor our long-term plan to reinstate our support facility inside the shed and re-open our gift Shop. The Pampanito is mentioned in the history of Pier 45 but is nowhere mentioned in the proposed alternatives.

Prior to the Loma Prieta earthquake, support facilities for the submarine (administration, storage of emergency and restoration equipment etc.) were located inside Shed A. Additionally a small gift shop was located on the pier apron. After the earthquake and the closure of the pier sheds our support facility was temporarily located outside the pier and administrative activities as well as the gift shop were moved into a temporarily trailer.” (Kathy Lohan, written comments)

Response

The Port is currently negotiating a lease with the NMMA to occupy 10,000 square feet of space in Shed A, and retain the space along the east side of the pier for the Pampanito.

The following text, describing this use, is added to the Project Description, EIR page 23.

Pampanito—about 10,000 square feet of Shed A, along the east side, would be used by the National Maritime Museum Association (NMMA) under a lease agreement with the Port for a visitor gift shop and administrative support facility for the Pampanito submarine. The Pampanito would continue to be moored along the east side of Pier 45 adjacent to Shed A where visitor access is provided along the apron.

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c. Proposed Project (Pier 45)

Text is also added to EIR Section A, Land Use, Zoning and Plans, page 38, second paragraph, as follows.

Other vessels (Pampanito historic submarine)

Comment

“When you examine the footnotes, you see that the real thrust of this building is for the retail space and parking, educational center and special events center to be used by hotels.” (Jeanine Dubois, verbal comments)

Response

The commenter is unclear about what footnotes indicate a ‘thrust’ to retail space, parking, educational center and special events. The purpose of the proposed Fisheries Center would be to educate the public and allow observation of a working commercial fishing harbor and pier (EIR, page S-5). The EIR includes impact analysis for four alternative use scenarios for Sheds A & C. The final preferred scenario would be selected by the Port Commission, in consultation with the Pier 45 Advisory Group. As long as the selected scenario includes uses addressed in this EIR, and no significant impacts are identified for the uses, this EIR (after certification) can be used by decision makers to make a determination whether to approve, disapprove or modify the proposed project.

Comment

“Pier 45 fish handling, fine. The fish that come into Pier 45, the bulk of those fish that Pier 45 will rely upon are brought in by ground transportation. That is a fact the Port, if they are honest, will not and do not dispute that fact.” (Ken Coren, verbal comments)

Response

The Port does not have access to information documenting the volume of fish brought in by truck to Fishermans Wharf. Trucks use Jefferson Street (see page 13 of the EIR, photos of truck trading activity) to off-load and trade with other trucks, or sell to trucks from restaurants. Not all the fish brought in by truck is taken to Pier 45 sheds. Some goes to processing and handling businesses along Fish Alley and to other fish processing and brokering businesses located away from Fishermans Wharf.

Comment

“Pages 21 through 23 discusses the Fisheries Center on Pier 45. The description of the Fisheries Center in the EIR comes out of a controversial 1994 Sedway Report that is inconsistent with the description of the Fisheries Center previously described in 1989 by the California Coastal Conservancy at the request of the State Legislature. I would ask that the EIR file the same description that the state legislator presented, rather than the Sedway Report.

Page 3 refers to the Sedway feasibility study completed for the Port in 1994 using grant funding from National Oceanic and Atmospheric Administration (NOAA), which among other things concluded industry-serving uses would not be "financially self-supporting and that complementary uses would be necessary to generate revenue to support the overall development of the Pier.

The implementation and handling of this study were seriously flawed. Its findings were compromised and not accurate. A charge has been made by one of the team consultants that fish industry uses were not seriously considered since there was an apparent bias or pressures in favor of placing non-fish industry uses in Sheds A and C on Pier 45. In fact, commercial fishing uses in adjacent Sheds B and D are paying their way, providing the Port with approximately \$600,000.00 of annual income or approximately 45¢ a square foot monthly. By comparison, Pier

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39, an extremely successful commercial project pays the Port approximately 30¢ a square foot monthly. Please delete the reference that the commercial fishing industry is not -self-supporting.

Also please insert on Page 3 that the Port has convened a group of community representatives, including representatives from the commercial fishing industry, which will advise the Port on the long term uses of Shed A and C.

Page 21 through 23 discusses the Fisheries Center on Pier 45. The description of the Fisheries Center in the EIR comes out of the controversial 1994 Sedway Report and it is inconsistent with the description of the Fisheries Center previously described in 1989 by the California Coastal Conservancy at the request of the State Legislature in the document titled AB 45 Preliminary Feasibility Commercial Fishing and Marine Environmental Research and Training Center, Pier 45 and Satellite Locations (here "AB 45 Report"). I suggest the EIR follow the description of that State report rather than the Sedway document, since it has been the model used in planning and public presentations since 1989.

The Sedway interpretation with its "visitors center" and "40,000 square feet of retail space" (and golf-simulators) sounds more like a shopping center than that the Fisheries Center. In the AB 45 Report, the Fisheries Center is described as an institution conducting research, maintaining a reference library and computer center for the use of the fishing industry, training and development activities devoted to productive methods of harvesting, processing, and marketing seafood products, jointly sponsored by private industry and public institutions. This institute will also study toxic materials disposal, ocean and Bay dumping of wastes, marine energy conservation, resolution of fisheries, oil industry and ocean mining conflicts. This facility will have areas devoted to public exhibitions, conference areas, interactive displays and possibly a Bay model for both research and public education purposes. Please incorporate the site specific descriptions from the AB 45 document into the EIR model alternatives." (Christopher Martin, written comments)

Response

The Sedway report was the most recent study for potential uses of Sheds A & C at the time the EIR was initiated. Though the study was not complete when the project description was drafted, the alternative uses of the sheds represented a broad spectrum of feasible uses that the EIR could analyze. The Port wished to keep its options open regarding exactly how the sheds would be developed, and funding has not been identified to pursue any specific development scenario. The EIR includes several alternative uses of the sheds because it is known that the Port plans to pursue development of the sheds, as funding is available. The EIR considers this range of potential uses to capture the potential cumulative impacts in the Fishermans Wharf area (particularly for traffic and parking). The Coastal Conservancy Report completed in 1988 provided some general possible fisheries center type uses, but recommended further, detailed feasibility analysis of a center at Pier 45. The Sedway report provided that more detailed analysis.

As suggested by the commenter, the text on page 3 of the EIR is revised to add to the last paragraph:

The Port has convened a group of community representatives, including representatives from the commercial fishing industry, to advise the Port on the long term uses of Sheds A & C. The group is referred to as the Pier 45 Advisory Group.

The Port recognizes that the Pier 45 Advisory Group does not consider the Sedway Report representative of what is needed at Pier 45 because it did not include fish processing and gear storage and parking for the fishing industry. The June 5th letter from the Port (Sharon Polledri to City Planning) would modify the preferred Pier 45 project description to include fish processing space and gear storage.

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2. Project Description

c. Proposed Project (Pier 45)

The Project Description for Pier 45 has been changed to include an additional alternative for Sheds A & C in response to the June 5th letter from the Port to City Planning.(see Staff Initiated Text Changes, Section D of the C&R, page 232).

The 1988 Coastal Conservancy report made preliminary findings on possible uses and activities for a Fisheries Center on Pier 45. One of its conclusions was that “the likelihood of successful funding for a new applied research and public education center on Pier 45 is uncertain.” The Sedway feasibility study could not find one such facility that was not reliant in part on grants, contributions and revenues from retail sales. As an example, grants and contributions account for 50% of the Exploratorium’s annual budget. Looking at retail was one method of reducing reliance on uncertain sources of grant funding and contributions. The Port is committed to working with the Pier 45 Advisory Group to resolve differences in opinion about the feasibility of various uses in the sheds before finalizing the development design for the Sheds A and C. If the final design proposal is substantially different from what is analyzed in this EIR, a Supplemental or Subsequent EIR would be required before a determination can be made regarding project approval.

Comment

“I would like to note the United States Coast Guard’s interest in maintaining access to moorings and Port services on the east side of Pier 45. Coast Guard cutters up to 378 feet in length have moored here for years while visiting the City of San Francisco and participating in public events, a practice I would like to continue during and after the work planned at this site. We expect our current level of use to continue, at about 48 days per year. The ability to reprovision and maintain 24 hour access to and from the ship - without risk of injury to the public and our personnel - are important considerations.

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As I am sure you appreciate, San Francisco is among the best liberty ports on the West Coast, and Pier 45 provides walking distance access to many of the City's most popular attractions.

Finally, I would like to note that the Coast Guards presence at Pier 45 complements your plans for an educational fisheries center in Shed C. Fisheries law enforcement is one of the primary missions of the cutters that moor here. The prospect of increased public exposure afforded by the a side promenade is one we view favorably." (S. D. Bibeau, written comments)

Response

The Port is making repairs to the fendering on the east side of Pier 45 with the intent of continuing to accommodate visiting ships, including the Coast Guard cutter. If fish processing is introduced to Shed C, fish would be transported to the shed by truck, not by boat, because the east side does not have a breakwater to protect commercial fishing boats from wave action. The wave action of the larger passenger ferry vessels and excursion boats in this area create wave actions that are difficult for smaller fishing vessels to tie up. According to the Port (tenant interviews) 50% of the product arrives by truck to Pier 45 Sheds B & D. It is anticipated that the fishing industry tenants in Shed C would receive and distribute products by truck. According to the Port's proposed Waterfront Plan, public access along the apron is envisioned, along with ceremonial berthing. Improvements to the apron are now underway to provide ceremonial berthing. (Port Capital Plan)

Comment

"Although the DEIR states that the Port's objective with regard to Pier 45 Shed A & C is "to develop uses complementary to the fishing industry", (DEIR, pages S-5 and 1), it proceeds to describe the Project as a series of tourist/visitor serving functions cloaked as a "Fisheries Center" consisting of a theater, cafe, food services area and gift shop, a Conference Center with a catering kitchen which will be "cross marketed with the area's hotels" (DEIR, page 22) and 40,000 square

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feet of retail space. How are these various stated uses complementary to the fishing industry? Other than its name "Fisheries Center" what does it have to do with the commercial fishing industry? At a public presentation (on May 21, 1996) Port personnel Sharon Lee Polledri, Dan Hodapp and others) stated in response to such questions that the Port intends to change the proposed project to include fish processing. In addition, Port Planner, Sharon Polledri is quoted as saying that the Port will find a way to incorporate fish processing as a use at Pier 45 Sheds A & C (*S.F. Examiner*, May 20, 1996)." (Laura Taylor, written comments)

Response

The June 5th letter from Sharon Polledri to City Planning modifies the Port's preferred project description to include fish processing, reduce the amount of retail space to 15,000 square feet, include maritime related offices such as fish brokers, storage space for fishing gear, parking for the fishing industry, and fisheries center.

The Port is also considering the feasibility of creating a Fisheries Center at Pier 45 in Shed A—shown as Event Space. The Port will work cooperatively with the Pier 45 Advisory Group to finalize the proposed uses in the Event Space. As envisioned, the Center would educate the public about the fishing industry; provide central source for fisheries data and exchange of information; train people regarding seafood handling, processing and preparation; and promote the consumption of seafood products.

The definition of what would constitute a fisheries center is yet to be decided but could include a demonstration kitchen for the handling and preparation of seafood products; a visitor center to educate the public on the history of Fisherman's Wharf and the workings of the fishing industry; a resource center with literature and computer hook-ups to access the latest information that affects the fishing industry; and theater (maybe 100 seats) geared towards an aspect of the fishing industry; and other possible uses.

d. Approvals

Comment

“The DEIR should discuss the need for a water quality certification or other review by the Regional Water Quality Control Board (RWQCB), the historical uses of the site, whether deposition of toxic materials at the site is likely, whether sampling of the Bay muds here is warranted prior to commencing any pile removal or dredging, and what, if any, review by the RWQCB is required as part of the approval process. Finally, the DEIR should address the type of piles, if any, which would be used in constructing the project. The California Department of Fish and Game, the RWQCB, and the Commission have new standards regarding the use of creosote treated wood pilings in the Bay which may affect this project.” (Joseph LaClair, written comments)

Response

Approvals required for the proposed project related to water quality and dredging are described in the EIR on page 31 (II Project Description, D. Project Approvals) and on page 166 (V. Mitigation Measures) under Measures Required By Law. Both the Army Corps of Engineers and the Regional Water Quality Control Board would need to certify that water quality objectives are met as part of the permit approval process for dredging. Piles used for construction of the Hyde Street Harbor dock and the walkway to the floating dock would be 24’ square concrete piles and not creosote treated wood piles. Proposed piles are described in the top paragraph of page 18 of the EIR.

Comment

“The Bay Plan policies controlling fill in the Bay also requires that at least 50 percent of any pile-supported replacement fill on which commercial recreation is to be located must be provided for public access and open space purposes. The Commission's fill policies for marinas state that fill

should be permitted only for marina facilities that must be in or over the Bay. Fill for marina support facilities, including parking, and harbormaster facilities may be permitted at sites with difficult land configurations provided the fill is the minimum necessary and any unavoidable loss of Bay habitat is offset to the maximum amount feasible, preferably near the site.” (Joseph LaClair, written comments)

Response

Public access at the harbor would consist of a 30' x 90' (2700 sq.ft.) section at the north end of the pier that is shared as a work dock for harbor users and a 160' x 6' walkway (960 sq.ft.) leading to this space. Public access on Pier 45 consists of the east apron and northern tip, where compatible with fishing industry uses, for a total of approximately 35,000 sq. ft.

The coverage and fill of the Bay and Shoreline Band is shown in Table 3, page 17 of the EIR. Proposed parking at the Hyde Street Pier (shown in Figure 6, page 16 of the EIR) is on reconfigured rock fill and would be dedicated parking for commercial fishing boat operators and fishermen. This location is proposed to provide access to boats for off-loading gear and supplies. An off-site parking location would not meet this need.

Comment

“The Port of San Francisco holds several permits for projects at Pier 45. Amended BCDC Permit No. M76-69 authorizes the construction of a chapel, the placement of a Fisherman’s Memorial with public access on Wharf J-3 (BCDC Permit No. M88-63) authorizes the placement of temporary Wharfingers office (trailer) on wharf J-3, until such time as a permanent office is constructed on the Pier. BCDC Permit No. M89-94 authorizes extensive earthquake repairs to Pier 45, including the areas beneath Sheds A, B and C. Finally, BCDC permit No. 1075 authorizes the San Francisco Maritime Museum to berth the SS Pampanito, an historic submarine beside the western side of the Pier, and requires the provision of public access. The DEIR should

discuss whether the projects authorized in these and any other existing permits would be affected, especially if any required public access would be reduced or eliminated as a result of this project.

The NOP on page 4 states that BCDC regulations defined the floating berths as fill in the Bay. Several other elements of the project would be within the Commission's jurisdiction and would also likely require an application for a major permit to be considered before the Commission at a public hearing and voted on at a subsequent Commission meeting.

Both the proposed deck extension for the harbormaster facilities, and the pile-supported and floating structures for the proposed commercial fleet marina expansion would constitute fill in the Bay. Certain repairs to existing pile-supported structures could also be considered fill in the Bay, depending on the nature and extent of the repairs. Section 66605 of the McAteer-Petris Act, in part, provides that:

“further filling of San Francisco Bay should be authorized only when public benefits from fill clearly exceed public detriment from the loss of the water areas and should be limited to water-oriented uses (such as...water-oriented recreation...) or minor fill for improving shoreline appearance or public access to the bay....That fill in the bay for any purpose, should be authorized only when no alternative upland location is available for such purposes...That the water area...to be filled should be the minimum necessary to achieve the purpose of the fill...That the nature, location and extent of any fill should be such that it will minimize harmful effects to the bay area, such as the reduction or impairment of the volume surface area or circulation of water, water quality, fertility of marshes or fish or wildlife resources...That public health, safety and welfare require that fill the construction in accordance with sound safety standards...[to protect]...persons and property against the hazards of unstable geologic or soil conditions or of flood or storm waters...That fill...would, to the maximum extent feasible, establish a permanent shoreline...” . “

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The DEIR should discuss these provisions of the McAteer Petris Act and the Bay Plan in detail and provide evidence to support statements made about the effects of fill on the Bay. The DEIR should also discuss the Commission's recreation policies, which state, in part that:

“marinas should be allowed on any suitable site on the Bay. Unsuitable sites are those that tend to fill up rapidly with sediment, have insufficient uplands, contain valuable marsh, mudflat or other wildlife habitat, or are subject to unusual amounts of fog.

The Commission can only approve the project if it provides maximum feasible public access. The Bay Plan policies on public access state, in part:

“In addition to the public access to the Bay provided by waterfront parks, beaches, marinas, and fishing piers, maximum feasible access to and along the waterfront and on any permitted fills should be provided in and through every new development in the Bay or on the shoreline....Whenever public access to the Bay is provided as a condition of development, on fill or on the shoreline, the access should be permanently guaranteed....Public access improvements provided as a condition of any approval should be consistent with the project and the physical environment, including protection of natural resources, and provide for the public's safety and convenience. The improvements should be designed and built to encourage diverse Bay-related activities and movement to and along the shoreline, should permit barrier-free access for the physically handicapped to the maximum feasible extent, should include an ongoing maintenance program, and should be identified with appropriate signs....In some areas, a small amount of fill may be allowed if the fill is necessary—and is the minimum absolutely required—to develop the project in accordance with the Commission's public access requirements....Access to the waterfront should be provided by walkways, trails, or other appropriate means and connect to the nearest public thoroughfare where convenient parking or public transportation may be available....”

The DEIR should describe any proposed public access and whether it would be consistent with the Commission's public access policies.

"The *San Francisco Waterfront Special Area Plan* policies on public access state, in part, that:

"in accordance with general Bay Plan policies, maximum feasible public access should be provided in conjunction with any development of existing or replacement piers. Public access should be located at ground or platform level, but minor variations in elevation intended to enhance design or open space may be permitted. Public access should also be open to the sky, although some covering may be allowed if it serves the public areas and does not support structures. Particular attention should be given to the provision of perimeter public access along the platform edge. Other uses may extend to the platform edge subject to the following conditions:

- (a) Such use should enhance the total design of the project, should serve to make the public access more interesting, and should not divert the public way along more than twenty percent (20%) of the total platform edge.
- (b) Deviations of the public way from the platform edge should be limited to short distances."

"The DEIR should discuss whether the project is consistent with the public access policies in the *San Francisco Waterfront Special Area Plan*." (Joseph LaClair, written comments)

Response

None of the existing Bay Conservation and Development Commission (BCDC) permits would be affected by the proposed project. This EIR (once Certified) would be used as support for the permit submitted to the BCDC for approval of the proposed Hyde Street Fishing Harbor and Pier 45 Sheds A & C projects. The proposed project is consistent with the BCDC public access policies and provides barrier-free access for handicapped along pier aprons. Public access to views of

the Harbor from Hyde Street Pier and Fish Alley would be improved with the proposed project by paving over the rockfill to provide public access and work space for fishermen.

The EIR includes the required information (Table 3, page 17) on the amount of Bay fill and Shoreline cover, including the coverage for the floating docks and piles.

The following clarification is added to the EIR, page 110, Land Use, Zoning and Plans, Impacts:

The proposed project is consistent with BCDC policies and the McAteer-Petris Act. Public access would be provided at the Hyde Street Harbor (2,700 sq. ft.), at the work dock (960 sq. ft.), and along the aprons of Pier 45 (35,000 sq. ft.). Proposed new fill in the Bay and Shoreline Band would be water-dependent and would not affect Bay water quality or marine biology as discussed in this report under Maritime Biology Impacts. The proposed Harbor improvements would meet stated objectives of BCDC and the Port for waterfront improvements to support and maintain the commercial fishing industry in San Francisco.

Comment

“The Commission’s jurisdiction at this location includes Bay waters up to the shoreline, and the line 100 feet upland and parallel to the shoreline which defines the Commission’s 100-foot “shoreline band” jurisdiction. Although it is not stated in the NOP, the elements of the project which appear to be located in the Commission’s jurisdiction include: (1) the demolition and reconstruction of the pier, including fill for the harbormaster facilities; (2) the placement of floating fill or boat slips; (3) the change of use in portions of Sheds A and C; and (4) public access. The DEIR should identify those project elements within the Commission’s jurisdiction and which will require BCDC authorization.” (Joseph LaClair, written comments)

Response

The Harbormaster’s two-story building proposed at the foot of Hyde Street Pier in the NOP and Initial Study is no longer part of the proposed project. The Port has

improved an existing two-story building along Fish Alley overlooking the Outer Lagoon as the Harbormaster's Office.

BCDC approvals are described in the EIR on pages 28-30, under Regional and State Approvals, and on page 110, under Impacts. The EIR does not identify any conflicts with BCDC policies or with the guidelines of the McAteer-Petris Act.

Comment

"The DEIR does a good job summarizing (1) the need for a BCDC permit for the proposed project, and (2) the Commission's laws and policies which apply to the proposed project. Because the proposed project includes approximately 0.5 acres of "fill" the project would likely be processed as a major permit application (Regulation Sections 10300,10400,and 10500)." (Nicholas Salcedo, written comments)

Response

The Port would complete the BCDC permit application after certification of this EIR and at the time that they were ready to move forward with a proposed project.

Comment

"In addition, the Federal and State Endangered Species Acts will need to be addressed and additional project approvals pursuant to these acts obtained. These approvals, such as a Section 7 Consultation (Federal Endangered Species Act) with the U.S. Fish and Wildlife Service, need to be addressed under the Project Approval Section of the DEIR (pages 26-32)." (David Behar, written comments)

"In addition the Federal and State Endangered Species Acts will need to be addressed and additional project approvals pursuant to these acts obtained. These approvals, such as a Section 7 Consultation (Federal Endangered Species Act) with the U.S. Fish and Wildlife Service, need to be addressed under the Project Approval Section of the DEIR. The Environmental Setting

portion of the DEIR is misleading in this regard and, the DEIR's conclusion that there are "No significant environmental effects that cannot be avoided if the proposed project is implemented" (DEIR page 173) is not correct." (Linda M Sheehan, written comments)

"The Project approvals section of the DEIR must include reference to the regulatory requirements of the state and federal endangered species acts (ESA) which required consultations with the U.S. Fish and Wildlife Services and the California Department of Fish and Game." (Laura Taylor, written comments)

Response

Information about the Federal Endangered Species Act and California Endangered Species Act is added to page 32 of the EIR as follows:

Federal Endangered Species Act of 1973 (16 USC 1531-1543)

This act and subsequent amendments provide for the conservation of endangered and threatened species and the ecosystems upon which they depend. Section 7 of the act requires Federal agencies, in consultation with and with the assistance of the Secretary of Interior, to insure that actions they authorize, fund or carry out are not likely to jeopardize the continued existence of threatened or endangered species or result in the destruction or adverse modification of critical habitat for these species. Regulations governing interagency cooperation under Section 7 are found in the Code of Federal Regulations Part 402.

Information about the California Endangered Species Act is added to Page 31 of the EIR following paragraph three.

California Endangered Species Act (Fish and Game Code 2050 et seq)

The California Endangered Species Act (CESA) establishes that it is the policy of the State to conserve, protect, restore, and enhance threatened or endangered species and their habitats. CESA mandates that State agencies should not approve projects which would jeopardize the continued existence of threatened or endangered species if reasonable and prudent alternatives are available that would avoid jeopardy. CESA requires State lead agencies to consult with the Department of Fish and Game (DFG) during the CEQA process to avoid jeopardy to threatened or endangered species. As an outcome of consultation, DFG is required to issue a written finding as to whether a project would jeopardize threatened or endangered species and to specify

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reasonable and prudent alternatives which would avoid jeopardy. CESA provides for joint consultations when species are listed by both the State and Federal agencies.

3. ENVIRONMENTAL SETTING

a. Land Use

Comment

“Page 33 Para 2 - National Park Service jurisdiction not included on any map.

Page 35 - explain on map, area under control of Dolphin and Rowing Clubs

Page 37 - Bell building should be on map of existing clearly marked.

Page 41 - two blocks between Mason & Taylor have strange (squiggly) use boundaries.”
(Sue C. Hestor, written comments)

Response

Figure 9, page 36 of the EIR is revised to show the jurisdictional boundaries of both the Port of San Francisco and the SF Maritime National Historic Park (National Park Service). An inset to Figure 9 shows the property boundary of parcels 502 and 504 under the jurisdiction of the SF Recreation and Park Commission, and leased to the South End Rowing Club and the Dolphin Club.

Reference to the Figure is added to the text on page 35, as follows.

“The private Dolphin and South End Swimming and Rowing Clubs, adjacent to Aquatic Park and Hyde Street Pier (these Clubhouses located on parcels 500, 502 and 504, under the jurisdiction of the San Francisco Recreation and Park Commission, on land zoned P-Public Use, and leased to the Clubs). See Figure 9.”

The Bell Smoked Fish Building, to be demolished for parking for fishing boat operators in the Harbor, is shown on Figure 5, page 15. Reference to this figure has been added to the text, at the end of the first paragraph on page 37.

Comment

“I'm here today representing a group of canoeists. We have a 45-foot 6-person canoe that lives on the beach just to the east of the Hyde Street Pier. I want to point out to you a glaring omission in the EIR, which is that the beach doesn't exist to the analysts who did the EIR because it is not mentioned, as far as I could tell, anywhere in it.

From my reading of the EIR, it appears that this beach can be maintained and be fully compatible with the project, and I would urge you to see to it that the EIR does examine the future of this beach and our use of it.” (Susan Alexander, verbal comments)

Response

The proposed reconfiguration of the rock fill and the proposed construction of the Hyde Street Harbor facilities (work dock, parking for fishing boat operators and secured access to the berthing facility for boats) would eliminate the beach referred to by the commentor.

The Port does not anticipate any beach area remaining for recreational canoeists between the harbor and the Hyde Street Pier. Existing recreational use of the beach is occurring without knowledge or approval from the Port Commission.

Comment

“The document neglects, however, to mention that the Hyde Street Pier is identified in the Bay Plan (Map No. 10) as a waterfront park priority land use area (see Joe LaClair's letter, page 2, P2). The EIR should mention on page 29 that portions of the proposed project are within a park priority use area as designated by the *San Francisco Bay Plan*. Park priority use areas are reserved for water-oriented recreation uses in accordance with the Bay Plan Policies on pages 21 and 22 (attached).” (Nicholas Salcedo, written comments)

Response

The EIR identifies the project site as part of the San Francisco Waterfront Special Area Plan (Map 1), on page 28 under the jurisdiction of the Bay Conservation and Development Commission (BCDC). Map 1 shows the western side of the Hyde Street Pier as part of the Maritime State Historic Park and the eastern side of the pier as Fish Processing, Limited Commercial Recreation and Public Access. The portion of Hyde Street Pier proposed for reconstruction for the project is currently used for parking, fish processing and fueling (a fuel truck was previously parked at the foot of the Pier, on fill). The proposed project would improve public access and visual character of the area visible from the Maritime Historic Park.

Comment

“The Project together with other existing and proposed land uses in the area are also the subject of a current Draft Waterfront Land Use Plan (Waterfront Plan) mandated by Proposition H which has passed by the voters of San Francisco in 1990 to restrict uses at the waterfront to water oriented, maritime uses. This Waterfront Plan which is to establish appropriate uses for the waterfront including the Project area, is currently the subject of a Master Environmental Impact Report (EIR). It makes no sense and is contrary to the intent of Proposition H and CEQA for this Project to move ahead of the Waterfront Plan and its associated Master EIR particularly in light of the fact that this Project falls within the waterfront planning area and involves adding activities on the Port piers which do not constitute maritime uses.(See also the discussion of Cumulative Impacts in Part IV.C. below).” (Laura Taylor, written comments)

Response

Versions of The Hyde Street Fishing Harbor/ Pier 45 Sheds A & C project have been discussed since 1988. As with other recent proposed projects under the Port jurisdiction, it is not dependent on consideration or approval of the Waterfront Land Use Plan. Though the proposed project is within the terms of Proposition H,

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3. Environmental Setting

a. Land Use

and allowable under the WLUP, it could be approved with or without the Waterfront Land Use Plan in place.

The Draft EIR for the Waterfront Land Use Plan was published on May 24, 1996 and is scheduled for Certification by the Planning Commission on 12/19/96. Its relationship to the proposed project is discussed on page 40 of the EIR.

b. Water Quality

Physical Conditions (Transport of Pollutants)

Comment

“Additional studies must be conducted of the transport of pollutants in the area.

It is important to understand the particular conditions which create this transport of pollutants into Aquatic Park and the relationship of those conditions to the times that people typically want to swim in Aquatic Park. These conditions may be defined as an ebb current, with a wind direction from the northeast, east or southeast, or a strong ebb current without an opposing wind. The wind is a factor because when it is from the northwest, it tends to bottle up the surface waters in the inner lagoon, and pollution from that source is not as noticeable even under ebb current conditions.

Unfortunately, the conditions just described which lead to transport of pollutants from the inner and outer lagoons into Aquatic Park coincide regularly with times which are considered most desirable by the majority of the Dolphin Club members for swimming in Aquatic Park. Thus for example, during the summer months, there is usually a northwesterly wind that commences in the mid to late morning and continues until approximately 7 p.m. The “U.S. Coast Pilot #7 (1988), published by the National Ocean Service, Charting and Geodetic Service, and National Oceanic and Atmospheric Administration, explicitly outlines, on pages 150 and 151, this wind tendency in San Francisco Bay. As previously noted, this tends to bottle up pollutants that would otherwise be transported to Aquatic Park during ebb current conditions. Thus the times of least pollution during the work week are also the times when the majority of Dolphin Club members are at work and unavailable for swimming. When those people desire to swim -- in the morning before the work day starts, or in the evening after work, which remains light for several hours -- the northeasterly wind has subsided and the ebb current is likely to transport pollutants from the inner and outer lagoon into Aquatic Park.

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3. Environmental Setting

b. Water Quality-Physical Conditions

At other times of the year, the transport of pollutants into Aquatic Park follows a less predictable pattern, but since there are two low tides every day of the year, there are significant periods of time during the remainder of the year during daylight hours, when people swim, that the conditions for pollution of Aquatic Park exist.

The Port has ignored the request to study the transport of pollutants in the area, with the result that the DEIR lacks any basis for predicting the project's impacts on Aquatic Park." (Margaret Reilly and Roger Beers, written comments)

"It must also be noted that the DEIR incorrectly states that the historic ship Eureka sits on the bottom in bay sediment and somehow impedes water circulation between the harbor and Aquatic Park (DEIR, page 48). According to Michael Bell of the National Park Service (conversation June 6, 1996) none of the historic ships rest on the bottom." (Laura Taylor, written comments)

Response

The EIR (pages 44 to 46) describes the physical conditions (tides, currents, waves, water depth, circulation and flushing) in the project area, including the harbor and Aquatic Park. The source of this information was: "Fisherman's Wharf Harbor Feasibility Study", dated June 1, 1988 by Moffatt & Nichol Engineers, and AGS and Kwan Architecture; "Numerical Simulation of the Circulation and Water Quality Within Fisherman's Wharf Harbor" dated August 1989, by the U.S. Army Corps of Engineers (Special Projects Report, No 84-10) and the "Fisherman's Wharf Breakwater Monitoring Study" by Jonathan Lott, dated May 1994, U.S. Army Corps of Engineers. This existing information for the project area was determined adequate for the EIR, and no current surveys or hydrodynamic studies were completed by the EIR consultants.

The correspondence from the Dolphin Club and South End Rowing Club representatives to the Department of City Planning dating back to December of 1989 was reviewed by the EIR water quality technical team. The specific

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3. Environmental Setting

b. Water Quality-Physical Conditions

concerns about the potential transport of pollutants from the Harbor to Aquatic Park during ebb and flood tides were considered by the EIR consultants for the statistical evaluation of coliform data and for designing the EIR water quality sampling plan. The statistical analysis reported “No important inter-station correlations were detected for ebb or flood periods and individual stations were not significantly correlated with the size of tidal fluctuations near the time of the sampling event.” The data evaluated included over 200 sampling events from September 1991 to October 1992 that included sampling at Aquatic Park, an area east of Hyde St. Pier and an area west of Fishermans Wharf. The statistical evaluation did not detect significant correlations between Aquatic Park and the harbor, but did detect a significant correlation between Aquatic Park and the two control stations to the west. (see Water Quality Report, Appendix G, SOMA Corporation, 1995)

Appendix C of the January 1996 Water Quality Study describes the Sampling Plan conducted by Woodward-Clyde Consultants, stating that “One goal of this Sampling Plan is to assess conditions in the Project Area and determine water quality in Aquatic Park during the period in which the Park may be influenced the most by water quality conditions in the project area. In the project area, one factor which may influence water quality conditions is the amount of flushing due to tidal currents. Higher pollutant concentrations are estimated to occur following a period of minimal flushing during which pollutants may accumulate in the project area without being diluted by other waters. Periods of minimal flushing are expected to occur during the neap tides of the first few weeks of June. Therefore, to establish water quality information during these periods of minimal tidal currents in the project area, it is proposed to sample during the period of ebbing flow when current velocities are low.” Actual sampling was conducted on May 10, 1995 from 0930 to 1200 during ebbing tide conditions.

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3. Environmental Setting

b. Water Quality-Physical Conditions

The correction is noted regarding the Eureka sitting on the bottom of the Bay.

The text on page 48 of the EIR is corrected to reflect this.

Comment

“The DEIR attempts to analyze the existing setting - inadequately, as noted above - but nowhere attempts to project what the impacts of the most salient feature of the project, the additional berths for commercial fishing vessels, will be on the water quality in Aquatic Park. Thus, the DEIR reviews the existing conditions in the Inner and Outer Lagoons and in Aquatic Park, but never seems to grasp the fundamental fact that the project involves at a minimum moving the sources of pollution in the former area to a location immediately adjacent to Aquatic Park. Thus, no attempt is made to extrapolate from any of the sampling data presented what the likely impacts on Aquatic Park will be from the Project.

As just one example, the DEIR acknowledges (1) that tributyltin and tetrabutyltin "are commonly used as an anti-fouling agent and used in marine paints for the hulls of boats," (2) that these were both found in the Inner Lagoon, where fishing boats are presently berthed or tied up, and (3) that tributyltin was there detected at a level almost three times what would be "considered protective of human health." (p.53). Despite these findings, the DEIR never considers the fact that the sources of this toxic chemical will now be moved over to a location immediately adjacent to Aquatic Park where people swim, or that the number of such sources in the area is likely to increase.

The same is true of the DEIR's treatment of all other contaminants detected in the sampling. Thus, because there is no attempt to study the transport of pollutants, the DEIR authors do little more than speculate about the sources of the bacteriological water problems. The DEIR and WQS speculate that storm water and municipal sewer discharges may contribute to bacteria found at all test sites. Perhaps so during wet periods, not so during dry months.” (Margaret Reilly and Roger Beers, written comments)

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3. Environmental Setting

b. Water Quality-Physical Conditions

Response

Commercial fishing boats have actively used the harbor for years. Fishing boats use the Main Basin (where the proposed berthing dock would be) to access the fueling station. The transport of pollutants from the Harbor to Aquatic Park was addressed in the EIR (pages 44-50) and in the separate technical studies completed for the EIR and included as part of the Water Quality Study, dated January 1996. Previous studies on the tides, currents, circulation and other physical conditions affecting transport of pollutants were used for the Water Quality Study and EIR. No new hydrodynamic studies were deemed necessary for the EIR. The impacts of the proposed Harbor facilities are discussed under Fuel Spills and Other Activities From Boats, page 115-119 of the EIR.

In response to the comment about dry weather vs. wet weather bacteria, the 1990 Water Quality Report for the Seafood Center environmental document reported that, "Coliform levels in Aquatic Park are similar for all tidal differentials for both incoming and outgoing tides. This means that in dry weather the direction and magnitude of the tides do not affect the average movement of polluted water from the harbor into Aquatic Park...The highest bacterial levels in Aquatic Park seem to occur at the east side at incoming tides, and the lowest tidal differentials."(page 15).

Tributyltin (TBT) is currently banned for use on commercial and recreational vessels. The only currently allowed applicators are the military. The most likely source of the TBT observed in the inner lagoon is from historical uses and possibly sediment. Tributyltin measured at five of the six sampling locations was below the reporting limit (not detected). The commenters reference to the tributyltin shown in Table 1 of the Water Quality Report (page 19) and in the EIR text on page 53 is a measured level of 13 nanograms per liter (ng/L, or parts per trillion) in the Inner Lagoon in May 1995. A value of 5 ng/L, as a 30-day average,

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b. Water Quality-Physical Conditions

has been recommended as an objective in the 1995 Basin Plan Amendment as protective of human health. The 13 ng/L level in the Inner Lagoon of the harbor is from a single sampling event and therefore cannot be compared to a 30- day average. The average could be higher than the single event or it could be lower. The Inner Lagoon is also the furthest point in the Harbor from the Aquatic Park and has high residence time (very little water circulation). The area to be dredged would be in the Main Basin, located closest to Aquatic Park, where the May 1995 water sample did not detect tributyltin. Removal of sediment in the project area will reduce one potential source of existing TBT in the Harbor. Previous Port dredging in the Harbor used clam-shell-buckets to minimize suspended solids being transported to Aquatic Park.

Sediments/Dredging

Comment

“The impacts of construction and dredging will mobilize any sediments, which can contain lead-based ores, arsenic, solvents acids, PCBs, petroleum products, paints, mercury, cyanide and other toxic industrial wastes (DEIR, page 102, 146-162), many of which were dumped into the Bay over a century ago. Once mobilized by the dredging and construction activities and suspended in water, these toxic substances can be carried by tidal action into the Bay, where they can endanger the health and safety of swimmers and the aquatic environment. The DEIR fails to analyze or adequately consider these important issues. The DEIR attempts to justify its failure to address these issues by making the irrelevant statement that during the maintenance dredging operation last year the "... Port received no complaints . . ." (DEIR, page 122). Yet the EIR also states that ". . . fish exposed to suspended sediment in the laboratory have been shown to suffer mortality as well as sublethal signs of stress." (DEIR, page 125). It is also noteworthy that the Port "will continue not to conduct dredging activities during the herring season" (DEIR, page 168).” (Linda M. Sheehan, written comments)

“Finally I cannot agree with the conclusions reached regarding the suitability of the dredged sediment materials for disposal at the Alcatraz site or the assessment of its impact on people swimming in the area where the dredging occurs. Certainly, the release of the fine grained materials at the dredging site, which is likely to contain more of the contaminants, will be considerable and will produce a plume that will affect areas in the vicinity used for swimming for some time. There is no adequate assessment of this short term impact. Also, in my opinion, it is not acceptable to treat the sediment material as appropriate for disposal at Alcatraz simply on the basis that it is no more contaminated than the average material presently disposed there. Finally, I was unable to find in the report the bioassay data for these particular sediments that would be required for disposal under the Clean Water Act.” (Dr. Douglas A. Segar, written comments)

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b. Water Quality-Sediments/Dredging

“In this context the present EIR on this project presents some alarming and disturbing problems. They revolve around dredging, disposal of dredge spoils, oversight of operations, and maintenance. The good news is that the EIR also scientifically indicates that the water quality in the Aquatic Park area is currently very good. "The calculated risk associated with swimming in Aquatic Park is also lower than the "significant risk level" established by the Safe Drinking Water and Toxic Enforcement Act of 1986 (Prop. 65), which is one excess case of cancer in an exposed population of 100,000 persons." Page 55/56 of the EIR. This section also indicated that it is more dangerous to drink tap water than it is to ingest bay water while swimming in Aquatic Park. You should know that this fits in with anecdotal experience shared among swimmers. Over the years there is a general belief that water quality has gotten better and better in the Aquatic Park area. Major exception to this has occurred only when there has been "maintenance" dredging activities in our area or times when dredge spoils dumped off Alcatraz Island are brought our way on flood tide due to storm conditions.

Currently the EIR estimates that the project would require approximately 20,000 cubic yards of bottoms sediments would have to be dredged. Without engineering containment or controls, this process would suspend these sediments, cause turbidity and combine with normal tidal action to spreading them well into the Aquatic Park swimming area. Page 125 of the EIR states that "fish exposed to suspended sediment in the laboratory have been shown to suffer mortality as well as sublethal signs of stress.

On page 122, the EIR seems to indicate that water quality would not be negatively affected because in April of 1995 maintenance dredging operations occurred in which no reported degeneration of water quality occurred. "...That maintenance dredging operation lasted five to six days and involved removal of about 17,000 cubic yards of sediment...The Port received no complaints related to the dredging activity...

First off, calling the Port every time there is a problem with water quality in the Aquatic Park area is not what most swimmers do, they would call a responsible agency like Baykeeper.

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b. Water Quality-Sediments/Dredging

Secondly, the maintenance dredging that occurred did not dredge "bottom sediments" as this project proposed to do.

Third, the EIR indicates on page 106 through 108 that these bottom sediments would most likely contain buried waste dumped into the bay from industrial operations which have occurred in the project area over the last 125 years. The results of "bore sampling" listed on page 147 of the EIR indicate that these wastes would likely include lead paint, petrochemicals, petroleum related compounds, arsenic, solvents, acids, cyanide, smelters slag compounds, various heavy metals, PNA's, pesticides and PCBs. This is a veritable "witches brew" of deadly chemicals and compounds.

In light of this, I strongly advise that these dredging activities be reviewed to make sure that they are really necessary to create the project. Fishing boats easily go in and out of the project area now. An alternative plan should be designed which does not require the significant dredging of bottom sediments in the "Outer Lagoon" or "Main Basin" or the project area. It would be environmentally sounder and probably economically more feasible to develop a plan which would build over existing toxic sediments and on to existing rock. This would further encasing and encapsulating these toxic sediments instead of stirring them up.

Further, what ever dredging operations occur in the future, engineering controls and containment procedures should be in place so as not to allow toxic contamination from suspended solids and turbidity to degrade water quality in the Aquatic Park area. The U.S. Army Corps of Engineers (COE) and the Regional Water Quality Control Board (RWQCB) have control over and issue permits for this activity. Note should be made that the construction activities involved in creating the breakwater in the mid 80's significantly and negatively impacted water quality in the Aquatic Park area. Further pile driving activities which lasted several months polluted the air with diesel fumes and caused noise pollution which lasted 8 hours a day during this period.

This breakwater hooks into the Aquatic Park area and extends east past Pier 45 and currently defines the northern perimeter of the Main Basin within the project area. Neither the U.S. ACE

or RWQCB paid close attention to the breakwater projects and its impacts on the environment while it was under construction.” (Daniel Macchiarini, written comments)

Response

The DEIR (page 121) indicates that dredging would be conducted under permit conditions required by the U.S. Army Corps of Engineers, BCDC, and the Regional Water Quality Control Board. Permit conditions would include sediment testing and water quality certification by RWQCB prior to dredging. Regulations for sediment disposal from dredging are further described in Appendix E, page A 63 of the EIR. The EIR also provides a table in Appendix B showing a summary of sediment characterization for two samples taken within the harbor in 1994 showing that the concentration of chemicals in harbor sediments is within the normal range of concentration found in the San Francisco Bay and concentration limits were not exceeded in the toxicity testing.

Testing done by the Port in the last two years has shown relatively clean sediment chemistry to minus 20 feet in Fisherman’s Wharf West Lagoon and Inner Harbor. Sediments from the Fisherman’s Wharf West Lagoon, west approach, and Inner Harbor did not show levels of metals or organics that were near any regulated levels. The sediments were not toxic to aquatic life in either the elutriate tests or the solid phase bioassay tests using the amphipod *Ampelisca abdita*. The Port has been able to dispose of sediments at Alcatraz Disposal Site, meaning that the most restrictive standards for sediment quality have been met. All dredging is subject to stringent testing requirements and results are reviewed by a committee of staff scientists from the Army Corps of Engineers, BCDC, Regional Water Quality Control Board, and U. S. Environmental Protection Agency. If elevated levels of contaminants were present, these agencies would require the Port to take appropriate steps to prevent water quality problems, such as alternative disposal options, screening the dredge site using suction dredge.

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3. Environmental Setting

b. Water Quality-Sediments/Dredging

The commentor has used incomplete references from the EIR to make a point.

The reference to the 'Port receiving no complaints', does not reflect the detailed information in the EIR about the regulatory process described for dredging, and the data from actual sediment testing in the harbor that shows that previous dredging has met all regulatory requirements. The temporary impacts associated with dredging (such as increased levels of suspended solids or turbidity), as discussed on pp 121-123 of the EIR, would not be expected to result in noticeable water quality effects based on effects experienced during the April 1995 maintenance dredging and on the water quality determination by the Regional Water Quality Control Board. The Port would notify the Dolphin Club prior to dredging activities, and would schedule dredging to avoid special activities of the Club. This was done during the maintenance dredging and 'no complaints were received'.

The other incomplete reference made by the commentor is to fish mortality, page 125. The following sentence, after the one quoted, is "However, fish have the ability to move and avoid the area in response to sediment turbidity (unlike in a laboratory). Adult fish would likely escape from areas of high turbidity and continue to avoid the area as long as sediment suspension persists."

See page A .35 for a summary of sediment characterization. Short-term effects of dredging are described on page 121 of the EIR. Also described are the permit conditions that would need to be met for dredging (pages 43-44), including the possible requirement for silt screens or other measures to control suspended solids, if necessary (pages 121-122) The Port would notify swimmers well in advance of dredging to alert them to possible incidental transport of sediments to Aquatic Park.

The Bay Conservation and Development Commission, Regional Board, and Army Corps of Engineers have permit authority over dredging in the Bay, and review of

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b. Water Quality-Sediments/Dredging

sediment chemistry analysis, solid phase and elutriate bioassay test results are required before every dredging episode. The Port has performed all required bioassay work before performing maintenance dredging at Fisherman's Wharf. Sediment analysis conducted in October 1994 in the Fishermans Wharf area indicated that bioassay results were within acceptable ranges (Advanced Biological Testing, 1995). Contrary to the commenters statement disposal at Alcatraz is based upon rigorous agency review of bioassay results, so disposal at Alcatraz would not be possible without bioassay results.

It is not anticipated that the Port would encounter sediment with elevated levels of contaminants in the project area based on previous testing of sediments in the Harbor. Testing done in the last two years has shown relatively clean sediment chemistry to minus 20 feet in Fisherman's Wharf West Lagoon and in the Inner Harbor. Sediments from the Fisherman's Wharf West Lagoon and Inner Harbor did not show levels of metals or organics that were near any regulated levels and the sediments were not toxic to aquatic life in the elutriate tests and the solid phase bioassay tests using the amphipod *Ampelisca abdita*.

The Port has been able to dispose of sediments at the Alcatraz disposal site, meaning that the most restrictive standards have been met for sediment quality. All dredging is subject to testing requirements and the results are reviewed by the Army Corps of Engineers, BCDC, Regional Water Quality Control Board, and U.S. EPA. If any problems were encountered, such as disposing of material upland, screening the dredge site and use of suction dredge or clam shell would be proposed by the Port to mitigate potential impacts.

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b. Water Quality-Sampling Program

Sampling Program

Comment

“Boat repair practices such as sanding, painting and engine repairs are routinely observed in the Harbor. These activities are often conducted from floats tied off to the boat under repair. The DEIR presents no data on this source of water and sediment contamination or the human health hazards it presents. Samples of effluent from these activities should be captured and analyzed for content and quantity.” (Margaret Reilly and Roger Beers, written comments)

Response

The 1995 sample locations were selected to evaluate six representative areas of the project, including the fishing harbor and outside the harbor in Aquatic Park and to the west of Aquatic Park. Samples of the water in the Inner Lagoon, Outer Lagoon and Main Basin of the Harbor were collected to evaluate the existing water quality conditions and to determine the cumulative impact of commercial fishing activities on water quality. The sampling program did not attempt to sample each potential source of pollution and then model or estimate the fate of each source upon discharge to the Harbor (which would be logistically difficult, scientifically questionable and very expensive). If the existing or historic boat maintenance activities have caused a long-term impact to the water quality in the Harbor, their effect would be expected to be observed in the water quality sampling results. Data from sampling (shown in Appendix B, page A.32) were analyzed for conventional water quality parameters, as well as, organic tin compounds, petroleum-related hydrocarbons, and metals commonly associated with boating activities. Other than in the Inner Lagoon, which is located furthest from Aquatic Park, no organic tin compounds were detected at any of the other five sampling locations (including the Main Basin, nearest Aquatic Park). Sediment chemistry work performed for maintenance dredging in the Inner and

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3. Environmental Setting

b. Water Quality-Sampling Program

Outer Lagoon did not show elevated levels of metals or organic tin compounds in sediments.

Comment

“The 1995 tests that were conducted are flawed and do not support any conclusions regarding the project’s impacts on water quality. The Port has again failed to consult with those most knowledgeable about local conditions most likely to produce pollution in Aquatic Park.”
(Margaret Reilly and Roger Beers, written comments)

Response

The EIR consultant, Woodward-Clyde Consultants (WCC) developed the water quality sampling program based in part on their review of the Water Quality Management Plan (including the sampling plan) submitted by the commentors, plus comments submitted on the previous water quality sampling conducted by Bendix Environmental Research. The sampling program prepared by WCC was peer reviewed by the EIR technical team (SOMA, MEC, Orion Environmental) and by OER, and the Bureau of Water Pollution Control prior to approval to conducting the sampling program. Sampling was conducted during the tidal conditions suggested by the commentors, using standard, approved methods. Results of the sampling event were intended to assess the existing water quality in the project area for constituents of concern and indicate the historical effect of boating activities in Hyde Street Harbor to Aquatic Park.

Comment

“Because of deficiencies in the [water quality sampling] methodology and analysis conducted in the report, it’s not sufficient to arrive at meaningful conclusions for any of these purposes.”

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b. Water Quality-Sampling Program

“Woodward-Clyde took a single set of samples at one location, then moved on to the next location, and then the next and so on. As a result, the data generated does not span a sufficient amount of time or conditions to provide any meaningful picture of the relationship between what was found in the Inner and Outer Lagoons to Aquatic Park. Nor does it even provide a picture of the contemporaneous conditions that existed at these different sampling points.” (Margaret Reilly and Roger Beers, written comments)

“My conclusions are as follows: First, the single sampling event conducted by Woodward-Clyde Consultants in May 1995 is statistically totally inadequate and is virtually meaningless for purposes of establishing the nature of chemical contamination in Aquatic Park and the Harbor area, the range of concentrations at which contaminant occur, the sources of these contaminants, and the fate and transport of these contaminants. Because only a single sample was taken at each location, there is no way to determine the temporal variability of contaminant concentrations or whether the single sampling provides data that even remotely representing the mean concentration. Reliance on a single sampling event is an egregious scientific error, particularly where the sampling is done in bodies of water subject to substantial tidal exchange, as is the subject area. It is well known that constituent concentrations generally vary greatly over time and under different tidal, climate, and weather conditions in such locations. (Dr. Douglas A. Segar, written comments)

Response

As noted on page 15 of the Water Quality Study, “the purpose of the water quality sampling was to : (1) assess water quality in the project area for constituents which may be affected by the proposed project and are of potential concern to those involved in water contact recreation, particularly Aquatic Park; (2) assess water quality in Aquatic Park for constituents which may be affected by the proposed Hyde Street Harbor and Pier 45 improvements; and (3) assess water quality outside of the area of immediate concern for comparison with the project area and Aquatic Park.” A further objective of the sampling program was to

establish monitoring locations, physical conditions and a quality assurance protocol for future sampling (for potential long-term or future monitoring of the harbor if deemed necessary). The sampling program also establishes a format for reporting future water quality conditions, and identifies the regulatory criteria and objectives for a salt water environment used for water-contact recreation. The sampling program was designed to characterize water quality during conditions that would favor the transport of water from the Harbor to Aquatic Park.

As discussed in the EIR pages 50-53, data from the water quality sampling event in the project area collected in May 1995 were compared with Basin Plan objectives and with data from previous samples taken in the project area. The data indicate that the water quality in the project area does not exceed the Basin Plan water quality objectives, and with the exception of dissolved copper levels at two sampling locations, the data do not exceed the U.S. EPA water quality standards (the water quality standard for copper in San Francisco is under review). The quality of the water in the project area is generally within the same range as water quality data from nearby parts of San Francisco Bay collected in 1993 as part of the Regional Monitoring Program (page 50, EIR).

Concentrations in the water column are likely to be variable. The sampling design was not an attempt to characterize this variability. In fact, timing for sample collection was chosen which favored maximum accumulation in the Harbor and transport into Aquatic Park (neap tide and ebb flow). Complete characterization of the variability of water quality in the Harbor and Aquatic Park is beyond the scope of this EIR and would likely involve an extensive multi-year study of the interaction of tidal, seasonal, meteorological, and episodic events. The single event sample taken by WCC was compared with data from the Regional Bay Monitoring Plan, and with the information analyzed from the monitoring for bacteria that included over 200 data points. The commentors do not present any data or facts to refute the information in the EIR.

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3. Environmental Setting

b. Water Quality-Sampling Program

The Port is currently investigating a cooperative long-term monitoring program with the Bureau of Water Pollution Control for bacteria sampling in the project area that would add sampling off the dock and Hyde Street Pier for enterococcus. The Port is also considering a request to the Regional Monitoring Program to add a station in the harbor area. Such monitoring will be discussed with the newly formed Environmental Quality Advisory Committee for the Harbor.

Comment

“The DEIR presents no data on this [boats]source of water and sediment contamination or on the human health hazards it presents. Samples of bilge discharge from vessels in the harbor should be captured and analyzed for content and quality. Absent that analysis, it must be assumed that bilge water discharged by the existing fleet is a significant source of bacteria, petroleum product and other pollutants which are health hazards to humans who use Aquatic Park water.”

(Margaret Reilly and Roger Beers, written comments)

“I have one concern and one point to make regarding the environmental report, and that is, in discussing the cleanliness of the water, the only tests we have done was for coliform bacteria, E. Coli. And as I think we are learning increasingly in the world we are living in, the air, the water, the soil has changed similarly over the last hundred years, and I think it's very important to consider the trace minerals that may be in the water, things that come from the petroleum products of the boats, and even that which is stirred up when any dredging is done along the shore. I think this is very important, and medicine is recognizing this more and more as time goes on. And I certainly think it is not proper on the part of people developing this area to not consider what may happen in terms of carcinogens, things that cause lung and cardiac disease and so forth. I thank you for your attention.” (John Beale, verbal comments)

Response

Laboratory results of water quality samples (Table 1, Appendix B) taken at four locations in the harbor and in Aquatic Park did not indicate exceedances of

threshold levels of various compounds established for recreational water in the Basin Plan, nor did the risk assessment indicate concentrations of compounds present were considered hazardous to human health. Sampling of potential sources of contaminants to the Harbor, such as bilge water, was beyond the scope (and budget) of the one time sampling event conducted for this EIR. The absence of this data neither confirms nor denies any cause and effect relationship between bilge water and the water quality in the harbor. Discharge of bilge water to the Bay is strictly prohibited (thought difficult to enforce) as discussed on pages 115-119 of the EIR.

In addition to coliform bacteria, the May 1995 sampling included a suite of analyses including total and dissolved metals, temperature, salinity, pH, turbidity, total suspended solids, biological oxygen demand, total coliform, fecal coliform, enterococci, total ammonia nitrogen, trace metals, polynuclear aromatic hydrocarbons, organotin compounds, organophosphorous pesticides and petroleum-related hydrocarbons including total petroleum hydrocarbons as gasoline, total petroleum hydrocarbons as diesel, benzene, toluene, ethylbenzene and total xylenes. See Sampling Results, pages 50-54, and Appendix B, pp. A.35-A.34, of the EIR.

Comment

“Instead, the EIR does little more than compare water and sediment samples taken in the Harbor and Aquatic Park with data taken elsewhere in the Bay and with rainfall and fish landing data. Absent analysis of effluent from existing Harbor activities, all discussion in the DEIR regarding sources of Harbor water and sediment contaminants, and the likelihood of increase of same, is speculative at best. Accordingly, there is no substantial basis for the DEIR conclusion that Harbor water quality and sediments will not be affected by continuation of existing activities, or by the changes and increases in those activities (and by the new activities) caused by the project.” (Margaret Reilly and Roger Beers, written comments)

Response

The proposed project is a modification of existing activities in the Harbor and on Pier 45, rather than the introduction of a new activity. Considering the multitude of activities that can cumulatively affect water quality in the Harbor (such as commercial and recreational boat operation, vessel maintenance and refueling, fish landing and handling, storm water runoff, wash down of aprons / piers / boat decks, equipment failures, leaking pipes, and illegal discharges to the Bay) the EIR addresses the project area waters as the receiving basin for all pollutants rather than separating out each individual contributor. The association between 'cause and effect' is made in the analysis of water quality parameters sampled and specific activities that contribute to each parameter. For example, classes of pollutants associated with the above referenced activities include bacteria and BOD, nutrients (ammonia), petroleum products (diesel, hydraulic oil, motor oil, mono and polynuclear aromatic hydrocarbons), and metals. Impacts to water quality from the proposed changes to the existing activities and facilities in the project area are discussed in the EIR , Section IV. Environmental Impacts, B. Water Quality, on pages 111-123. Under the proposed project the changes to the Harbor would include adding berthing in an area of the Main Basin that has historically been used by boats on a daily basis to access the existing fueling dock and Outer Lagoon.

Comment

"The Negative Declaration attempted to minimize these problems by stating, for example, that the water samples tested did not establish the presence of chemical levels indicating fuel leakage or spillage. This failed to take into account, first, the fact that the Inner Harbor was not tested by the consultant and this is where much of the fishing boat activity currently occurs. Second, the consultant's conclusion that no permanent contamination had taken place does not negate the fact that leaks and spills regularly occur which produce temporary contamination which is a

significant impact to the Commenters and other members of the public seeking to enjoy Aquatic Park. Finally, no testing was done for surface films, which are frequently observed by Club members. (Margaret Reilly and Roger Beers, written comments)

Response

The sampling conducted in May, 1995 for this EIR included a sample collection in the Inner Lagoon, noted on Figure 11, page 49 of the EIR as location No.1. Water Quality sampling results indicate that total petroleum hydrocarbons were not detected during this one time sampling event. The EIR does not state any conclusions regarding 'permanent contamination' since the purpose of the sampling was to assess the existing water quality conditions. The EIR, page 115, discusses the potential for leaks and spills to occur in the Harbor. Page 53 of the EIR, last sentence of the first paragraph, states that "During sample collection, the field observations noted an organic sheen apparent in the Inner Lagoon (Station 1) and in the vicinity of the Outer Harbor (Station 3), but none was noted at any of the other stations." Surface films were intentionally not sampled (see EIR, p. 50) because they were determined not to be representative of the portion of the water column most often contacted by swimmers. Instead, samples were collected about six inches below the water surface to simulate the mixing of surface films and the top layer of water that occurs during swimming.

Comment

"The water quality tests and analysis conducted and relied upon in the DEIR as to current water quality are so flawed as to have no credibility. They cannot be relied upon to support any conclusions regarding the water quality in the Project Area or in Aquatic Park. In addition, the apparent ineffectiveness of the Port's current enforcement and policing practices must be evaluated in the context of the existing and proposed activities in the Project area. We concur with the comments submitted by the Dolphin Club with regard to this DEIR and rather than

restating them here, we hereby incorporate them by reference.” (Laura Taylor, written comments)

Response

The EIR and the technical Water Quality Study, specify all of the assumptions and methods used in the water quality sampling plan. Sampling and analytical methods used were standard, approved techniques, and reference include APHA-WPCF “Standard Methods for the Examination of Water and Wastewater, 17th Ed., American Public Health Organization, Washington, D.C. 1989”; EPA “Methods for Chemical Analysis of Water and Wastes, EPA-600/4-79-020, 1983”. The sampling program was peer reviewed by the EIR technical team (SOMA and Orion Environmental Associates), the Bureau of Pollution Control, Office of Environmental Review, and the Port Environmental Health and Safety Officer prior to conducting sampling.

The Port is proposing, as part of the project, an increase in harbor supervision from five days a week to seven days a week, and has committed to 24 hour supervision. The Port has also established an Environmental Quality Advisory Committee for the Hyde Street Harbor area to assist the Port in ‘monitoring’ conditions in the project area to ensure that improved enforcement and policing actions are effective in improving existing conditions. The Committee will also provide recommendations on future actions to be taken by the Port to address potential environmental issues in the Fisherman’s Wharf project area.

Comment

“Yes, I think the general discussion about the adequacy of the water quality samples, I am concerned it's accurate that water quality sampling was only done on one day at one time. I'm looking for clarity on that, if that was an accurate representation. And also the issue of times at

which the samples were taken, also the number of samples and the various locations. That's my primary concern." (Commissioner Kelly J. Hayden, verbal comments)

Response

See responses above (C&R page 68) regarding the objectives of the sampling plan, the methods, sampling locations and sampling results. In addition to the May 1995 sampling conducted by Woodward-Clyde Consultants for this EIR, SOMA Corporation conducted an analysis of previous coliform sampling data provided by the Bureau of Water Pollution Control. The City's data represented the most extensive coliform data available for the study area. Samples for coliform were collected by the City four times weekly over a twelve-month period. This type of information was valuable in evaluating correlation of water quality conditions in Aquatic Park with physical parameters in the harbor area that could affect water quality, such as rainfall, tides, waves, currents and the use of the harbor potentially associated with the volume of fish landed at Pier 45. This information was important background to information used to establish the protocol for the May 1995 water quality sampling program.

Data from the one-day sampling event was compared primarily with Basin Plan water quality objectives for recreational contact water, and with EPA standards and available Regional Monitoring Plan information. The analysis also considered information from previous sampling in the area (City coliform data and the 1988 Water Quality Study completed for the previous Negative Declaration). The comparison with Basin Plan objectives was to see if there were any water quality parameters that appeared unusually high, that would warrant additional sampling for the EIR. The consensus among the EIR technical specialists and the City's peer reviewers was that the data was consistent with Basin Plan objectives and that there were no water quality parameters that appeared unusually high that warranted further sampling for the EIR.

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b. Water Quality-Sampling Program

Comment

“No one from the Dolphin Club was consulted about the tests that were done in 1995 by Woodward-Clyde. The 1995 test conducted by Woodward-Clyde were taken under the conditions which Commenters had advised the Port were least likely to detect pollution conditions in Aquatic Park.

In the Dolphin Club's Scoping Comments we examined in great detail the conditions that are most likely to produce the maximum opportunity for the transport of significant pollutants into Aquatic Park. The Club noted that one condition which inhibits the flow of pollutants into Aquatic Park is wind from the northwest. As we stated in those comments: "The wind is a factor because when it is from the northwest, it tends to bottle up the surface waters in the inner lagoon, and pollution from that source is not as noticeable even under ebb current conditions." Scoping Comments at 18.

Yet, this is *precisely the condition* under which Woodward-Clyde took the only test that were performed in 1995 for the DEIR. (p. 50). The DEIR never acknowledges the Dolphin Club's earlier advice to avoid this circumstance or that it would tend to inhibit findings in Aquatic Park. Instead, the DEIR skirts this issue disingenuously by simply asserting that "locally-generated wind waves could affect water currents from the harbor to Aquatic Park."

In its Scoping Comments, the Dolphin Club stressed that "it is important to take a sufficient number of samples of the appropriate parameters in order to ensure that the data collected is capable of providing a basis for general extrapolations to the conclusions sought" and that "problems immediately arise with moving bodies of water when a very small number of samples are taken." Scoping Comments at 31-32. Thus, we suggested that the sampling include the far less expensive test required for BOD, Turbidity and Suspended Solids, and that sampling be conducted "over a 24 hour or longer period, with sampling conducted on the hour or half-hour at each sampling location." *id.* at 32." (Margaret Reilly and Roger Beers, written comments)

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Response

The sampling conducted for the EIR included tests for biochemical oxygen demand (BOD), turbidity, and total suspended solids, as suggested in the Dolphin Club's Scoping Comments. The scope and objectives for the sampling plan are described on page 2 of Appendix C of the Water Quality Study, and clearly reflect that the Dolphin Club suggestions for sampling were reviewed and incorporated into the sampling plan. Sampling times were selected such that they favored both maximum accumulation of pollutants in the harbor area (neap tides) and maximum transport into Aquatic Park (ebb flow). Wind conditions at the time of the sampling could not be predicted during the planning prior to sampling which needed to occur one week prior to the scheduled sampling to allow for scheduling of boat time and coordination with the analytical laboratories. Sampling was scheduled for the early morning and late afternoon when winds are generally light. However, as the commentor points out prevailing winds often occur from the northwest (as was the case during the sampling). As such, sampling while wind was coming from the northwest is representative of conditions which often occur in the Project Area.

Twenty-four hour sampling was beyond the scope and budget of this study and would not necessarily provide additional relevant information, since seasonal as well as temporal variations occur in the project area.

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Bacteria/Enterococcus

Comment

“Third, the data reviewed in the Draft Environmental Impact Report and Water Quality Study on coliform does not establish - contrary to the conclusions reached - that it comes from the west as opposed to the Inner Lagoon and Outer Harbor area. More importantly, there has been an insufficient number of sample events and sample locations for enterococcus, which is clearly more useful than coliform testing for judging the impact of the water quality in the area on swimmers or others who come in contact with the water. The enterococcus data is more useful in this respect because studies have established a high correlation between its presence and various adverse health effects. Moreover enterococcus is longer lived in the water and is more indicative of human fecal material.

From the limited testing that has been done, the enterococcus data give me pause as to the suitability of this area for swimming under the present water quality conditions. If one compares, for example, the standards for enterococcus developed in Hawaii to account for protection of swimmers, it is clear that those standards are violated in a number of instances according to the existing data.” (Dr. Douglas A. Segar, written comments)

Response

The analysis of enterococcus was performed as part of the 1995 water quality sampling conducted for this EIR at six locations in the project area (including in Aquatic Park). One (Outer Lagoon) of the six sample locations exceeds the Basin Plan objective for enterococcus. The Basin Plan steady state objective is 35 MPN/100ml (the EPA maximum level for a designated beach in salt water is 104 MPN/100ml) and the level in the Outer Lagoon sample was 50 MPN/100ml (higher than the steady state objective but lower than the maximum level). The sample in Aquatic Park taken the same day was <2 PN/100ml.

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A statistical evaluation of weekly coliform data from the SF Public Works Department, covering a period from September 1991 through October 1992, conducted by SOMA Corporation (Appendix G of the Water Quality Study) indicated that, based upon available information, there were no statistically significant correlations during neap tide between the coliform concentrations found in the Hyde Street Fishing Harbor/Pier 45 area and Aquatic Park. Statistically significant correlations were detected between Aquatic Park and the control stations to the west of Aquatic Park. The use of a coliform evaluation for the statistical analysis, rather than an enterococcus evaluation, was performed because of the availability of the coliform data (a total of 199 sampling events in Aquatic Park at a frequency of four times per week). Comparison of the fecal coliform and enterococcus data collected in May 1995 with Basin Plan and EPA water quality criteria is presented in Table 1 on page 19 of the Water Quality Study. Of the 199 samples collected by the SF Public Works Department in Aquatic Park in 1991-1992, seven samples exceeded the Basin Plan objective for coliform.

With reference to the State of Hawaii's limit : "In marine recreational waters within one thousand feet of the shoreline, including natural public bathing or wading areas, enterococci content shall not exceed a geometric mean of seven per one hundred milliliters in not less than five samples equally spaced over a thirty-day period." (Hawaii Final Regulations, 11-54-08). A single sampling event would not provide sufficient data to determine conformance or violation with this standard.

Comment

"The SOMA Report (p. 114, FN4) and historic bacterial contamination data collected by Dept. of Public Works shows a range of bacteria levels in the Harbor over the course of the year, sometimes meeting and sometime exceeding compliance standards. High levels correspond with

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rainfall. High levels also occur at other times including non-rainfall periods. The data indicates continuous presence of bacteria in the Harbor. The DEIR lacks any investigation of the likely sources within the harbor of this coliform bacteria. Absent investigation of in-harbor sources, it must be assumed that the cumulative activities in the Harbor area contribute to the continuous presence of elevated bacteria levels. As set forth in the comments of Dr. Segar (Appendix G), a more fundamental flaw in the analysis done by the Port is the failure to provide sufficient sampling and analysis of enterococcus. He concludes that the data developed so far of this gave him "pause" as to the existing suitability of the water quality in the area for swimming. Clearly, the Port must do more to sample and analyze this parameter." (Margaret Reilly and Roger Beers, written comments)

Response

The analysis of enterococcus was performed as part of the May 1995 water quality sampling at six locations (including Aquatic Park) in the project area conducted by Woodward-Clyde Consultants for this EIR. The statistical evaluation of weekly coliform data taken from September 1991 through October 1992 and reported in the North Point Bacteria Weekly Report was conducted by SOMA Corporation (Appendix G of the Water Quality Study). The analysis of data included the potential effects of rainfall by stratifying the data set according to rainfall during the previous 24-hour period (rain days) and no rainfall during the previous 24-hour period (no-rain days). The study indicated that, based upon available information, the amount of rainfall during the previous 24-hour period was significantly correlated with coliform concentrations at Aquatic Park and the control stations west of Aquatic Park but not with concentrations at the Project Area locations. (see Table 8, Appendix B of the 'Statistical Evaluation Aquatic Park Coliform Data' by SOMA Corp., April 1995 in Appendix G of the Water Quality Study completed for the EIR). Table 1 of the same Study, shows 7 of 199 samples that exceed the 1000 MPN/100ml objective for total coliform in contact recreation water.

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The use of a coliform evaluation, rather than an enterococcus evaluation, was performed because of the availability of the coliform data (a total of 199 sampling events in Aquatic Park represented four samples per week) from the Bureau of Pollution Control, City and County of San Francisco. Comparison of the fecal coliform and enterococcus results to the Basin Plan and EPA water quality criteria is presented in Table 1 on page 19 of the Water Quality Study.

The enterococcus group is a subgroup of the fecal streptococci and is a valuable bacterial indicator for evaluating the extent of fecal contamination of recreational surface waters. Because the enterococcus group appears to be primarily associated with human fecal material, the presence and concentration of enterococci in water collected from the project study area is a valuable parameter to evaluate. This is why the samples collected during the 1995 water quality sampling included analysis for enterococcus as well as fecal coliform and total coliform.

Comment

"The DEIR and WQS contain outright errors in stating the "no fish waste is washed off the apron[s] into the Bay" (DEIR p. 115; WQS p. 38) and "[n]one of the fish wastes drain or are discharged to the Bay." (*Id.*) These practices are common, tolerated and allowed by the Port to continue under its "self-policing" enforcement style (p. 116). Yet, the DEIR relies on the above assertions to avoid all further analysis of the impacts of these practices as they exist and may be increased by the Project.

Moreover, the DEIR provides only a sketchy and incomplete analysis of the extent to which the Project can be expected to increase fish handling and processing activities. First, the DEIR focuses only on "fish landings" as the basis for its conclusions. However, fish landings account for only a small percentage of the seafood actually handled and processed in the area. However, this is largely speculative since the data does not allow any conclusion as to whether declines at

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other ports would have been larger without relocation of the industry from Fisherman's Wharf, and whether there will be a return of at least part of this industry with the upgrade of facilities in the Project.(Margaret Reilly and Roger Beers, written comments)

“We further note that the DEIR is wrong in stating that “. . . no fish waste is washed off the apron into the Bay” and that “None of the fish wastes drain or are discharged into the Bay. (DEIR, page 115). Several of our members watched this occur during the May 21, 1996 Port tour of the proposed Project area, yet the DEIR relies on such false statements to avoid further analysis of the impacts of these activities. It is interesting to note that the DEIR admits that “[s]ome dumping from boats may occur.” (DEIR, page 116). As noted above in Para III.A most water quality impacts are sidestepped in the DEIR by relying on the incorrect assumption that the Project is not anticipated to generate any increase in the number of vessels in the harbor.” (Laura Taylor, written comments)

“Also, if you walk on the docks, you will see the Port does not police these water quality issues. On any given day, you can witness dead fish being washed off the decks of fishing vessels and sewage being washed into the harbor by punched out drains. If the Port can't take care of these apparent uses, I doubt they will be able to police a larger harbor.” (Jeanine Dubois, verbal comments)

Response

The EIR discusses the fish handling activities, and potential increases in this activity on pages 114-115 of the EIR. The EIR consultants have visited the project area on numerous occasions in an attempt to observe the illegal activities described in the comment, and have not seen fish waste being washed off the aprons into the Bay. This does not imply that it might not happen. The fish handling facilities on Pier 45, in Sheds B&D have drains to collect fish waste within the sheds where all processing is done, and interviews with the processors pointed out that fish waste is a marketable product and is picked up twice weekly by truck to take to a rendering plant in Oakland to make fishmeal (see EIR, p.

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114). The fish landing information is discussed because it relates to use of the harbor (commercial fishing boats) and to the proposed project. Fish traded on Jefferson Street and brought into the area by truck is not part of the proposed project. This activity is included in the discussion of existing conditions (EIR pages 9-10).

The Port does not maintain data on the volume of seafood received by truck. Fish and Game maintain data on seafood landings in an area, but data by individual processors is confidential and not available.

Comment

“From the swimmers perspective, the greatest health danger they face is the presence of coliform which occurs when there are heavy rainfalls causing untreated sewerage to enter the outfalls. That problem has nothing to do with the fishing vessels, but rather is the result combined runoff/sewer treatment system that San Francisco processes.

However, the new waste removal facilities at the fishing harbor should benefit the swimming community, particularly if the fishing harbor is carefully monitored by the Port, and that appropriate measures are taken when and if waste is not handled properly. In Europe, there are devices which are able to detect waste when it is dumped in excessive quantities. However, I have been unable to find the presence of this technology in America.” (M. Toby Levine, written comments)

Response

The EIR discusses coliform in the harbor and Aquatic Park on pages 113-114. The EIR reports that the statistical analysis of 12 months of coliform data for Aquatic Park, Presidio and Crissey Field, with rainfall, and tidal conditions in the harbor indicated a statistically significant correlation of levels of coliform with rainfall data for the previous 24-hour period. However, correlations between

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coliform levels in the project area (Inner and Outer Lagoons) and rainfall were not statistically significant for the same period. No positive correlations were found between coliform data at any stations and fish/crab landings for the period between 1991-1992.

In researching potential measures to control illegal boat discharge in the Bay, Los Angeles County Health Department has implemented a 'No Discharge Dye Tablet Program' for all vessels entering Avalon Harbor to control illegal discharge of waste from the boat head into harbor water. All vessels entering the harbor are given a brochure explaining the program and the consequences of discharge (\$500 violation fee). Any owner/operator refusing to comply with placement of dye tablets in each individual dual head on the boat cannot be assigned a mooring within the harbor. The Harbor Patrol Officer places a florescent green dye tablet in each head aboard the vessel. The heads are then flushed several times to insure that the dye had reached the holding tank and the y-valve is switched to the holding tank position. Vessels with through-hull systems receive dye tablets with no test flush. Any discharge of dye after the placement of the initial tablet and test flush results in a citation being issued and the vessel being immediately expelled from the mooring in the harbor for a period of a year. (communication with John Phelps, Avalon Harbor Master, dated June 13, 1994). The newly formed Environmental Advisory Committee for the harbor may want to explore this further.

Additionally, all boaters would be encouraged to use the pump-out facility located at the foot of the berthing area, near the fueling facility.

Comment

"In my opinion, water quality is one of the main concerns if this project is allowed. If one takes a walk and surveys the existing pollution and general disregard of clean water by the fisherman,

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fisheries and tourist restaurants, one can only wonder why these industries would be rewarded with more berths, directly next to us. Many of the boats are old and leak gas and oil. Trash is commonplace and often blows if not thrown directly into the Bay. The EIR, on page 51, admits that the coliform bacteria present in human waste is possibly due to illegal and unsupervised discharges from fishing boats. The maximum coliform level for public beach or water contact sports is 1000 yet the chart in Appendix B (page A231) shows levels of 1600 in the Outer Harbor where many of the boats berth and they want to move closer to us.” (Lisa McCally, written comments)

Response

The commenters reference to ‘maximum’ coliform level for public beach or water contact sports is 1000 is stated incorrectly. As described on page 51 of the EIR and in footnote No. 13 on the same page, “the bacteriological standards for public beach or water-contact sports require that sample have a coliform level less than 1,000 Most Probable Number per 100 milliliter (MPN/100 ml, which is a statistical measure of the number of bacterial colonies) and no single sample shall exceed 10,000 per 100 ml”. The footnote describes the bacteriological standard even further by stating that the 1,000 per 100 ml is related to 20 percent of samples taken over a 30-day period. The footnote (b) for Table 1 on page A.32 is corrected to reflect this information. Also related to this comment, the coliform data collected in Aquatic Park in 1991-1992 (twelve months of data) showed seven of the 199 samples exceeded the 1000 MPN/100ml threshold.

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Microlayer Sampling

Comment

“We observed that testing that has been conducted for a period of several years by Battelle Laboratories regarding surface waters, that there is a respectable body of scientific opinion supporting this kind of testing, and that the surface testing done in other areas has shown that surface water quality is often significantly worse than that beneath the surface. (p. 34).

Nevertheless, the authors of the DEIR still refuse to perform that kind of testing which could provide information about the water quality most directly affecting swimmers. Again, the DEIR does not even acknowledge the Dolphin Club's earlier comment, or provide any response to the cited body of authority which has endorsed this sampling method. Rather, the DEIR concludes without further analysis that taking water samples six inches below the surface somehow "represent[s] the portion of the water column that is most often contacted by swimmers." (p.50). Obviously, we can only assume that the continued refusal to conduct this kind of testing reflects the Port's determination to avoid that kind of sampling which would be most likely to show the presence of the petroleum hydrocarbons and other contaminants so frequently encountered by swimmers at the Dolphin Club in Aquatic Park.

Again, Dr. Segar's attached comments in Appendix G underscore the lack of any justification for the failure to take surface samples, and the apparent intent to avoid sampling that would show the higher concentrations of chemicals to which swimmers are being exposed.” (Margaret Reilly and Roger Beers, written comments)

“Second, no adequate rationale is presented to justify taking samples in Aquatic Park at six inches below the surface. Indeed, for the following reasons, it is hard to conclude that this method was adopted for any reason other than avoiding detection of the higher concentrations that necessarily exist in the surface microlayer.

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The rationale stated in the Water Quality Report for sampling six inches below the surface was that the mixing action by a swimmer would necessarily disrupt the surface and that the swimmer would therefore be exposed to this mix within six inches of the surface. The consultants give no explanation for their choice of the six inch depth and provide no evidence to support the choice of this depth. Thus the choice of this depth appears to be arbitrary and scientifically unsupported. While sampling a mix of some depth of the upper water column (including the surface microlayer) may be appropriate for assessment of the potential for dermal exposure, it is entirely inappropriate as a method of gauging the concentrations of different chemicals in the water that are likely to be ingested by a swimmer.

In practice, a swimmer breathes in as his or her mouth comes above the surface and it is at this point that ingestion of water is most likely to occur. Thus, from the standpoint of the most likely source of exposure, sampling of the surface microlayer would come much closer to detecting the actual concentrations and chemicals to which the swimmer would be exposed. Moreover, sampling the surface microlayer is all the more important because this microlayer always contains higher concentrations of contaminants than are found in the water column.

Even if one accepted the rationale offered in the report that the upper six inches of the water column should be mixed and sampled this is not what was done by the consultant. In fact, samples were taken of the water column six inches below the surface by a method that specifically excludes any surface microlayer. This was achieved by inserting a closed sample bottle six inches below the surface and opening it to allow the water sample to enter. This procedure does not replicate in even a remote way the "mixing" conditions that the rationale is based on.

The consultant argues that the surface microlayer was not sampled because the concentrations of contaminants in this layer are likely to be variable. This is a specious argument, for the concentrations in the water column sampled by the consultant are also likely to be variable and the consultant made no attempt to assess such variability.

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Simply put, the sampling design wherein samples of the water column at six inches depth were the only samples obtained, and where only a single sample was obtained for each site is scientifically unacceptable and unsound. Moreover, this sampling program design significantly underestimates the concentrations to which swimmers will be exposed and, therefore, biases the risk assessment that was based on these results. The bias is such that the risk to swimmers is significantly underestimated.” (Dr. Douglas A. Segar, written comments).

In terms of the less dangerous but probably more aggravating problem to swimmers is the presence of engine oil mixed with water which floats on the surface of the fishing harbor. When the tides are right, the oil will move toward the swimming harbor.” (M. Toby Levine, written comments)

“The draft that you have before you, I believe, is intentionally deceptive in its water quality measurements. The authors know that there are pollutants on the surface. They intentionally tested waters below the visible pollutants. The report ignores entirely the fact that pollutants are absorbed mostly through the skin. You don't have to drink the water to be poisoned. The previous speaker pointed out that this is like building a gas station on the lip of a pool. It's worse. It's in the pool. Hyde Street Pier is not a barrier. Hyde Street Pier is a walkway. Right underneath is daylight, all but entire daylight. This is one body of water.” (Ken Coren, verbal comments)

Response

Water samples were collected between 2” and 6” below the surface. During the sample collection process, the actual dipping and filling of the collection bottle caused turbulence and mixing of the surface waters with any potential microlayer that could have been present. A portion of the immediate surface layer (which may have included a potential microlayer) may have been collected in the sampling bottles.

Water samples analyzed for hydrocarbons and benzene, toluene, ethyl benzene, xylene (BTEX), which would be the primary pollutants of concern in surface

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films/microlayer, were collected by submerging a Teflon bailer (plastic tube with a ball valve) through the surface of the water to a depth of approximately six inches. Consequently, the collected water samples represent a portion of the immediate surface layer, as well as, the surface water layer up to six inches. If a microlayer was present during sampling, the water sample collection process would have resulted in the partial collection of the microlayer as the bottle and bailer were submerged. These subsurface samples are used to represent the portion of the water column that is most often contacted by the swimmers as a result of the mixing of the top 6" of water that occurs during swimming.

The dermal absorption of chemicals through the skin is an important exposure route to evaluate. Ingestion of water during swimming was the other exposure pathway considered. The public health evaluation presented in Appendix E of the Water Quality Study includes an evaluation of direct ingestion and dermal absorption of the sampled water as potential exposure pathways (Tables D-4, D-6, D-9, D-10 and D-11). The risk assessment evaluation presented is consistent with U.S. EPA and Cal EPA methods and procedures. The screening-level quantitative risk assessment is such that it is very conservative in nature and is based on assumptions that overestimate actual site-specific exposure parameters.

Specific sampling of the microlayer was not conducted for the following reasons:

1. Collection of a representative microlayer sample is questionable due to several associated uncertainties. Firstly, surface films in the San Francisco Bay region are variable with respect to spatial and temporal distribution. The tendency for surface film formation is governed and restricted by several factors, such as surface wind and wave agitation. The study of coastal water microlayers (including the scientific parameters upon which their formation and composition are dependent) is a new arena of scientific research and little definitive scientific information or protocols exist. One area of uncertainty pertains to the

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contribution of atmospheric deposition to the composition of the microlayer, which in turn calls in question the representativeness of a microlayer water sample. The difficulties associated with the reliable scraping of a thin surface layer off a moving surface and the changes in wind speed and turbulence add to the uncertainty associated with the collection of a representative surface film sample.

2. The analysis of a potential microlayer would indicate the presence or absence of floatables, diesel oil or other surface pollutants at the time of sampling rather than provide representative pollutant concentrations for the main body of water in the project area. It would also not capture the volatile components potentially present in the water.

3. The microlayer is literally a few micrometers in thickness (one millionth of a meter or ten thousandth of a centimeter). Application of laboratory analytical results associated with microlayer samples to a risk assessment would require gross assumptions regarding the thickness of the layer and the representatives of the samples, which is difficult to measure scientifically.

4. Visual observation of surface films have been reported which indicates that they occur. (See EIR page 53, last sentence of first paragraph). Consequently, surface films have been documented in the EIR, in addition to information on total petroleum hydrocarbons, and polynuclear aromatic hydrocarbons that were analyzed as part of the subsurface sampling.

Collection of samples from the subsurface is standard collection procedure used by researchers (e.g. Regional Monitoring Program for Trace Substances, S.F. Estuary Institute Annual Monitoring Report, 1995) and is a reliable method to characterize surface water quality, albeit excluding surface microlayer. Specific sampling of the surface microlayer was not performed because surface films are a

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visibly recognized problem in the Project Area and such testing is not necessary to confirm the visual observations already noted in the public record.

Water Quality Conditions

Comment

“SERC is concerned with the existing degraded water quality in the Project area and in Aquatic Park and its impacts on the health and safety of swimmers. The primary sources of such degradation include discharges from the currently existing activities in the Project area including those listed above. The proposed project will not only continue but will increase such activities and add new activities which will further impact water quality in the Project area and in Aquatic Park.” (Laura Taylor, written comments)

Response

The EIR provides substantial information in the Environmental Setting section for Water Quality (pages 42 through 62) describing the physical conditions of water in the Harbor. This information is supported by a detailed technical study on Water Quality that also includes eight separate appendices, each aimed at providing the extensive information requested in the Dolphin Club and South End Rowing Club response to the Notice of Preparation. The preparers of the EIR reviewed available data for the project area from previous sampling of sediments, stormwater discharges, North Point bacteria weekly reports for coliform in Aquatic Park, and other water quality sampling (Bendix, 1989 and U.S. Corps of Engineers 1983 and Port Wet Weather Data, 1994). The EIR consultants also visited the project area during the early morning hours on numerous occasions in an attempt to observe actual discharge of fish waste from boats, washing off of oily waste from aprons of the pier or from boat decks, surface oil and floatables. The EIR consultant interviewed fish processors and inspected facilities for clogged drains, and illegal disposal of fish waste. The EIR consultants did not substantiate the issues identified by the commenters during these unannounced visits (on some occasions made with City representatives). However, they

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observed oil on the surface of the water on some visits to the Harbor area, and noted that drains along Fish Alley were clogged, some drained directly into the Bay, and machinery was stored outside some processing sheds along Fish Alley. (Fish Alley is in the project area but is not proposed for change as part of the proposed project, and therefore is not subject to impact discussion in the EIR). Oil on the deck of the fueling facility was observed.

Interviews with fish processors revealed that fish waste is collected routinely by an Oakland company that uses it to make fishmeal. None of the drains in the facilities on Pier 45 were clogged, and all screens were in place. Persons interviewed reported that health inspectors routinely inspect facilities for cleanliness. The aprons along the west and east sides of Pier 45 do not have drains or gutters to collect storm water runoff (that could contain oil and bacteria). This information is presented in the EIR on pages 114 and 115.

Samples of water quality in the Harbor revealed some elevated levels of copper, and one station with elevated levels of coliform. None of the samples taken in Aquatic Park exceeded Basin Plan objectives for recreational water. (EIR pages 50-54)

As a result of the issues raised during the environmental review process the Port has developed an initial list of 'action items' to add to the Best Management Practices (page 165 of the EIR). The Port has also established an Environmental Quality Advisory Committee to monitor and provide input to the development of additional actions that could be taken to improve existing conditions in the Harbor.

Comment

"The DEIR lacks analysis of the effects of this new location for berths and boats. The DEIR lacks meaningful analysis of the sources of existing degraded water conditions in the harbor, and

certainly lacks sufficient mitigation measures to address those conditions.” (Margaret Reilly, written comments)

Response

The location of the proposed floating berths is in the Main Basin (shown on Figures 5 and 6 in the EIR, pages 15-16) of the Hyde Street Fishing Harbor, adjacent to the existing fueling facility. This area of the Harbor is used by commercial fishing boats on a daily basis to access the fueling facility and the Outer Lagoon. Sources of potential pollutants to water quality are discussed in the EIR on pages 111-123.

The proposed floating docks and berth design would be enclosed on two sides by floating pontoons that would extend below the surface of the water, and the western side of the berthing facility would be fitted with a flexible skirt which would eliminate gaps between floats and would collect floatables and surface pollutants and help to prevent them from being transported to Aquatic Park. (see pages 18-19 of the EIR).

Comment

“Existing conditions/uses which have not received environmental review.

- 116 commercial and sport fishing vessels berthed in the Harbor.(*EIR page 1 and also included as part of analysis of water quality Setting and Impacts*)
- 52-54 fishing vessels which chronically or seasonally violate port tariff #4.(*transient boats identified, EIR page 1*)
- Recurring visible petroleum sheen on waters in the Harbor.(*EIR page 53,top paragraph and Impacts page 115*)

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- Seafood handling on Fish Alley.(*EIR page 37 and Impacts, page 114*)
- Seafood handling on Pier 45.(*EIR page 37and Impacts, page 114*)
- Discharge of fish waste in the Harbor.(*EIR page 52, and Impacts, page 114*)
- High concentrations of sea lions and harbor seals in the Harbor, apparently attracted by food sources generated by tenant and tourist activity in the harbor.(*EIR page 70-71*)
- Vehicle parking/traffic on Pier 45, Fish Alley and other over-water piers in the inner and outer lagoons.(*EIR pages 94-95*)
- Increased load bearing capacity of waste lines, floor drains, water lines, electrical systems sufficient to double volume of seafood handled on Pier 45 sheds B&D.(*EIR pages 75 and 126*)
- New leases on Pier 45.(*EIR page 9*)
- Uses of and drainage from Pier 45 west apron.(*stormwater runoff, EIR page 51*)
- Uses of and drainage from Pier 45 sheds B&D sanitary and floor drains(*EIR page 114*).
- Uses of and drainage from Pier 45 Valley truck and vehicle loading area.(*oil/water separator, EIR page 119*)
- Effects and contents of effluent from new outfall discharging Pier 45 valley drainage directly to the Bay.(*EIR page 119*)
- Increased parking/car/truck traffic on Pier 45. (Associated with new leases and otherwise permitted by the Port). (*EIR page 142*) “

(Margaret Reilly and Roger Beers, written comments)

Response

Each of the bulleted comments above are followed with the reference pages in the EIR (in italics) where the information can be found. All items have been discussed in the EIR, even though many items pertain to existing conditions (Pier 45 Sheds B & D) and not to the proposed project.

Comment

“The existing facility is already a filthy operation. Just take a walk along Jefferson St. and view the oil and scum in the water surrounding the fishing fleet. Independent fisherman cannot afford adequate pollution control. Many boats in the fleet are more than fifty years old and they all leak oil.” (Robert Blum, written comments)

“I am a member of the Dolphin Club and have swam daily in Aquatic Park for nearly a decade. As is now trash, fuel and debris regularly float through Aquatic Park from the boats already in place along the Fisherman's Wharf area. To open it up to further development will certainly destroy the water quality further, likely to the point of unsuitability.” (Elizabeth A. Z. Schiff, written comments)

Response

The existing conditions for water quality are described in the EIR on pages 42-62. Improvement measures are described in the EIR for cleaning up surface oil and floatables by use of absorbent booms and absorbent pads and increased use of the work skiff to more than the existing one time a day; and increased supervision of the harbor boat activities. (see pages 117 and 168 of the EIR)

Litter and trash floating in the Harbor are discussed on page 120 of the EIR. The design of the proposed berth facility is described on page 18 of the EIR. The proposed design would provide a physical barrier between the Harbor and Aquatic Park by enclosing berth areas with encased foam pontoons that would ride slightly

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below the surface of the water and entrap floatables. No boats would be allowed on the western side of the proposed berthing facility.

The Port is also proposing to add an absorbent boom between the existing opening from the end of the Hyde Street Pier and the breakwater. The Port has proposed to increase operation of the work skiff to cleanup the Harbor daily.

Comment

“The wharf is also a tremendous recreation area. Many of the citizens of San Francisco swim at Aquatic Park, myself included. Let me assure you that when the tide turns ebb there is an unbelievable amount of garbage and foul water that currently flows out from the Pier 45 area. I have stood in the shallow water with my young son as he played at the waters edge and in one hour fished out innumerable pieces of plastic garbage, discarded plastic line, broken up wooden fish crates, pieces of pier pilings etc. When the tide turns ebb, it is easy to see the multicolored oil sheen floating past on the surface.” (Robert Blum, written comments)

Response

See response above to increased daily use of the work skiff to clean up floating debris in the harbor. The proposed project includes foam pontoons on two sides of floating berths where fishing boats would be berthed, and a flexible skirt to eliminate gaps between floats, that would help to capture floatables.

Comment

“Regarding the issue of water quality, I should state that those people concerned about that, that there is no group as concerned about water quality as is the commercial fishing industry. After all, the health of our catches, the marketability of those fish, depends on good water quality. And, indeed, it was our organization that led the effort of the state legislature to ban the use of very toxic boat paint, tried to get that out of the waters. Now, as a result, there is less water

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pollution from the poisons emitted from this type of boat paint emitted from vessels. It's our belief water quality will be improved as a result of this project and The mitigation measures involved and mentioned in the EIR.” (Zeke Grader, verbal comments)

Response

“Mitigation” (water quality improvement) measures referred to in this comment are described on pages 165-167 of the EIR under Best Management Practices.

Comment

Page 115 - There seems to be a great discrepancy between oil slicks observed by swimmers and rowers and amount of spills set out here. This needs greater attention. How many reports to Coast Guard by Port alerting to problems in the past year, the past 5 years? What was nature of problems? (Sue C. Hestor, written comments)

Response

The Port's Oil Spill Notification List and Emergency Notification information are attached to the EIR in Appendix B, pages A.39-40. The Port has an internal reporting procedure for oil spill response and a procedure for making the legally required notifications. By law, the Port must report all oil spills no matter how small (including mere “sheens” on the water) . The Port's Environmental Health and Safety Section coordinates oil spill response notification and clean-up activities. The Port has kept detailed records of all spills that were brought to the attention of Port staff. Over the past five years the Port has recorded nine oil spill incident's, six were in the Fisherman's Wharf Lagoon. The two incidents reported in 1996 included: a sinking fishing vessel that spilled 10-20 gallons of fuel, and a boat bilge pump spill of 1-5 gallons of bilge water. The Port used booms and absorbents to clean up the spills. Two other recorded spills were related to the fueling dock, and two were abandoned pipelines under Pier 43 1/2 and Pier 64, one was bilge pumping, one was diesel from a salmon trawler, and

one was an unknown source. (Source of information: Roberta Jones, Memo dated August 22, 1996).

Some spills originate outside of the Harbor and the Port cannot isolate and contain these spills. Larger spills originating in the Bay, where the responsible party either cannot be found or cannot be relied upon to respond, require response from the Coast Guard's federal oil spill response contractors. In this situation, under federal and state law, the Port serves a support function as directed by the Coast Guard and the California Department of Fish and Game, but does not have primary responsibility for the clean-up.

Fuel spills from boats are discussed in the EIR on pages 115-118, and measures to mitigate spills are discussed on page 166 of the EIR.

Comment

"The DEIR and WQS identify numerous activities that potentially cause water quality impacts in the project area and in the waters of adjacent Aquatic Park .

All of these activities currently exist and occur in the Harbor, and none have received formal environmental review. The proposed project will provide facilities for these activities to continue, will result in increases in some of these activities, and will add new activities that also have potential for impacting water quality in the project area and in Aquatic Park.

Water quality in the project area is poor, violates existing legal standards, and is a contributing source of pollution to water in Aquatic Park. (See WQS p. 37). The DEIR and WQS contain and refer to water test data (the "Data") showing elevated levels of bacteria and other pollutants in the Harbor, with some levels exceeding regulatory limits and objectives.

The pollutants found in the Harbor are the types that "may potentially originate from existing Harbor activities and proposed improvements (fishing boats, fueling; fish processing; storm runoff)." (See WQS Appendix C pp. 4-5).(Margaret Reilly and Roger Beers, written comments)

Response

The EIR discusses potential impacts to water quality on pages 111-119, including activities listed in Appendix B of the commentors written comments, such as, boat fuel spills, bilge discharge, garbage and debris thrown overboard, washdown water from boat maintenance and cleaning. Potential impacts to water quality from fish processing and handling are also discussed in the EIR (pages 114) and stormwater runoff is discussed on page 119-120. The technical backup to the EIR is the Water Quality Study, and substantial information is contained in this study to provide details on existing conditions and potential sources of existing pollutants in the harbor area.

The commentors reference to page 37 of the Water Quality Study is unclear because this page discusses fish landing data and bacteriological data. The reference to this page in the WQS may be to the historical coliform data that shows seven out of 199 sampling events exceeded the 1000 MPN/100ml threshold level for coliform in Aquatic Park (Appendix B of the Water Quality Study). The statistical analysis of this same data, however, does not show a correlation between coliform levels in Aquatic Park and coliform levels in Fisherman's Wharf Harbor. The statistical analysis showed a significant correlation with the control stations to the west of Aquatic Park but not to the fishing harbor to the east.

The May 1995 sampling of water quality at six locations in the project showed water quality conditions for all parameters within Basin Plan water quality objectives for recreational contact water except for copper (Inner Lagoon and Aquatic Park) and bacteria (Outer Lagoon and Main Basin).

The reference to Appendix C, pages 4-5 is also unclear. These pages list the considerations used as a basis for selecting the water quality parameters established in the sampling protocol and 1995 sampling plan prepared by Woodward-Clyde Consultants. As the bullet at the top of page 5 indicates, water quality constituents were selected to capture pollutants potentially resulting from fishing boats, fueling, fish processing and storm runoff. Data from the 1995 sampling of the harbor was then used for analysis of potential impacts associated with each constituent (pages 111-119 of the EIR).

Comment

“The Data finds, but fails to identify the sources of pollutants in the project area and Aquatic Park water. That pollutants found in the project area may occur at lower levels in Aquatic Park is comforting, but not a basis to conclude that the project area is not the source of the pollutants.

Data contained in and referred to in the DEIR reflects chronic presence of contaminants in the water and sediments in the Harbor. Some of these contaminants exceed legal and administrative compliance standards and objectives (WQS p. 37), and many are contaminant types known to be associated with seafood handling and operations of a commercial fishing harbor (bacteria, organics, petroleum related hydrocarbons, metals). (DEIR S-7, pp. 111-123, Appendix B; Table 1, p. A41 and A42 and Table 15).

The DEIR fails to investigate and evaluate a number of the existing activities in the Harbor area as potential sources of contaminants.”(Margaret Reilly and Roger Beers, written comments)

Response

Sampling was conducted to assess water quality conditions both within Aquatic Park and in the Harbor and at control station west of Aquatic Park. As the statistical analysis of 199 data points of coliform sampling (over a 12 month

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period) points out, the significant correlation for coliform concentrations in Aquatic Park was with the control station to the west and not with the Harbor.

Sources of contamination affecting the water quality in Aquatic Park include general Bay activities, general dredging disposal in the Bay, the historical presence of chemical-affected sediments, boat activities including fishing boats in the Harbor (and other boats outside the Harbor that effect water that is transported into the Harbor, such as the ferry service to the east of Pier 45), marine mammal populations and others. Sampling and quantification of each individual source of pollution to the Bay waters is beyond the scope of this DEIR. The 'cause' and 'effect' relationship is made between the types of pollutants associated with specific activities (boats, fish processing, stormwater runoff, etc.) and water quality parameters sampled and analyzed.

The analysis of existing and historic water quality conditions in the Hyde Street Harbor and in Aquatic Park presented in the EIR shows that conditions are within Basin Plan objectives. The protocol for sampling (sample locations, water quality parameters, tidal conditions, sampling technique and laboratory procedure) established in the Water Quality Study could serve to establish a long-term monitoring program for the project area. The Port and Environmental Quality Advisory Committee will discuss the appropriate monitoring for Fisherman's Wharf Harbor.

Page 38 of the Water Quality Study indicates that "There is no indication of a relationship between levels of coliform data in the harbor waters and fish landing data or fish processing activities. Other sources of coliform bacteria are known to be present in the project area, such as wet weather sewer overflows which contain untreated sewage diluted with rainfall and urban runoff." The statistical analysis of coliform levels in Aquatic Park showed a significant correlation with the control stations to the west of Aquatic Park.

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Comment

“On the morning of May 21, I understand that you guided a tour of the proposed development for any interested individuals. I chose to swim instead of take the tour. However on that particular morning the entire area of Aquatic Park was covered in fuel. I began swimming at about 6:30 a.m. and ended 38 minutes later due to the foulness of the fuel and oil. The tide was going out at the time so one can only surmise that the spill occurred from within the Bay probably from the area just east of Aquatic park. This type of spill is very alarming. Individuals who were on the tour reported that the spill was also visible during the tour and even though it was noted it did not seem to incite any action on the part of the officials present on the tour.

Spills of this type occur periodically and make swimming unbearable if not unhealthy (I can only speculate about the damage to the eco-system and wildlife). My concern is that with its proposed development the spills will occur more frequently and the issue of often unseen biological contaminants will increase. In the years that I have been swimming I have never known of any investigations that occur to determine the origin of these spills. It would seem that without some type of reliable monitoring and appropriate sanctions and fines there is little incentive for boats to comply with clean water guidelines and laws. I have personally observed the effects of intentional vandalism of drainpipes and again I am unaware of any consequence for by-passing the sanitation system. It is also alarming that these situation are not corrected.

I strongly believe that until the Port can demonstrate effective management in regards to water quality, it is inappropriate to consider any further development.” (Laura Burtch, written comments)

“I am writing to express my concern over a recent oil spill in San Francisco Bay which seemed to come from the west side of Pier 45. On Tuesday May 21, 1996, I and many other Dolphin Club swimmers were the unfortunate recipients of that oil during our morning swim. I don’t know if you have ever had the experience of either swimming through oil or breathing in its noxious

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fumes, but I guarantee you it is not a pleasant one. And I sincerely hope that I will not have to experience it again.” (J. Marcus, written comments)

“Before proceeding with the construction of an additional 60 berths in a tidal basin directly adjacent to Aquatic Park, it would do well for the Port to develop a realistic and enforceable water quality management plan for its existing facilities. Clearly, the present situation with occasional spills and contaminations needs to be rectified before adding more potential offenders. As recently as May 21, while representatives of the Port were conducting a tour of the facilities on Pier 45, Shed B, an extensive oil slick was observed alongside the pier, spreading into the basin. The fact that every swimmer that same morning complained about the fuel presence throughout the lagoon was clear evidence that, in fact, environmental accidents in the Pier 45/Hyde Street Basin do pass into Aquatic Park on the ebb current. Perhaps most discouraging was the fact that the presence of this rather large spill did not elicit even a token of concern or action from the representatives for the Port. So much for a self-policing policy.”(David Zovickian, Written comments)

“Just yesterday, for example, I (and dozens of other swimmers) swam through a smelly, visible oil slick that was floating on the ebb tide from the fuel dock or a boat east of Hyde Street pier into Aquatic Park Cove around 8 AM. The slick fouled the water near the Thayer, at the breakwater, and at the opening between the breakwater and Muni Pier. This has happened many times.” (J. Irving, written comments)

“Thank you for arranging the May 21 walking tour of Pier 45, Fish Alley, and the fuel dock. As you recall, during our 7 am stroll along the west side of Pier 45 B Shed an extensive oil slick was observed adjacent to the Pier and spreading into the basin. It is significant that upon my return to Aquatic Park, I encountered numerous members of the Dolphin and South End Clubs who had swum that morning. Each remarked that they had encountered a widespread fuel presence in the water, not only along the beach but throughout the lagoon. In fact several members chose not to swim based on the slick visible from the docks. This incident illustrates how environmental

"accidents" in the Pier 45/Hyde Street Basin area directly impact water quality in Aquatic Park Lagoon.

The presence and effects of pollution are all too common to the recreational users of Aquatic Park. In this latest example, the presence of fuel in the Lagoon was noted through the morning (refer to the enclosed Dolphin Club water quality log). Its presence through the Lagoon clearly demonstrates that on an outgoing ebb current, water (and the pollutants contained therein) in the Pier 45/Hyde Street Basin area passes through Aquatic Park. Neither a west wind (2-6 mph on this morning) near the presence of the historic vessels had any effect on this flow. In fact, since the construction of the Pier 45 breakwater, the ebb flow has no choice but to pass through Aquatic Park.

Water quality continues to be the primary concern of the Dolphin Club as regards Fisherman's Wharf, Pier 45, and the proposed Pier 45/Hyde Street Harbor. Incidents such as those which occurred May 21st underscore this concern and focus the need for the Port to address the issue of water quality management in their proposed uses of Fisherman's Wharf, Pier 45, and the Pier 45/Hyde Street Basin." (David Zovickian, written comments)

Response

A copy of the letter, dated June 12, 1996 from the Port Planning Director to the President of the Dolphin Club documents the incident of oil in the harbor (and in Aquatic Park) on May 21, 1996. The incident was reported to the Fishermans Wharf Manager. See also the response above (C&R page 98) describing the Port's reporting procedure for oil spill response and legal notification requirements.

The Port has an internal reporting procedure for oil spill response and makes all of the legally required notifications when the Port learns of a spill (Appendix B of the EIR). By law, the Port must report all oil spills no matter how small (including mere "sheens" on the water), and the Port has done so in every case in which it has learned of a spill. The Port also takes any necessary steps to clean up

the spill, relying on specially trained in-house personnel to respond with booms and absorbents, or, when necessary, contracting with private oil spills response coordinators for larger problems. The Port's ability to respond would increase with weekend supervision of the harbor. Of course, the Port cannot isolate and contain a spill if the spill originates outside the harbor. Large spills originating in the Bay where the responsible party either cannot be found or cannot be relied upon to respond require response from the Coast Guard's federal oil spill response contractors. In this situation, under federal and state law, the Port serves a support function as directed by the Coast Guard and the California Department of Fish and Game and does not have primary responsibility for the clean-up.

Comment

"Page 42 - Stormwater Pollution Plan - so is it being followed to the letter? If not, why not and what needs to be done?"

Page 46 - middle para - "tidal culvert" - no such labeled on Figure 3.

Page 49 - a strange map with no coding on figure. Also, please label public beach and Dolphin/rowing clubs." (Sue C. Hestor, written comments)

Response

As described on pages 119-120 of the EIR, the Port has implemented physical changes to Pier 45, as part of the FEMA post-earthquake improvements, that included the installation of a 4,000 gallon oil/water separator for stormwater runoff from the sheds roof and paved 'valley' area used by trucks. A similar oil/water separator for stormwater on the Hyde Street Pier is proposed as part of the project. See also C&R page 140, stormwater impacts.

The tidal culvert is shown on Figure 2, page 6 and on Figure 11, page 49, in the EIR.

Figure 11 on page 49 of the EIR is from the Army Corps of Engineers study for the breakwater. It is used to show the location of the six sampling stations for water quality. The location of the Dolphin Club and South End Rowing Club are shown on Figure 2, page 6; Figure 5, page 15; Figure 6, page 16.

Comment

“My points are three, all related to water quality. First, water quality in Fisherman's Wharf is bad and doesn't have to be that bad. Here is a picture I took, and I'm circulating one set of pictures among you. This is harbor water on any day. Petroleum is a big problem. Petroleum sheen in the harbor is the norm, not the exception. When OER consultants took samples for the Water Quality Study, they saw petroleum in two of the three sampling areas. They saw it, but did not test it. Our consultant and we have suggested a form of testing appropriate to test sheen on the water, they just didn't do it. No reports to the Coast Guard or to anyone else. But we have eyes, so here's the picture. It's as good as a water quality sample. It's also proof that self-policing fails as a mitigation measure. Bacteria is another serious and chronic problem. Here is a picture I took a year ago. Tough to see, but what it is a drain under a fish alley. It's a good example of how bacteria gets in the water. That's waste spewing from pier operations into the Bay. We sent both of these pictures to the Port and OER in April, I mailed it. Last Sunday I took the kayak through the harbor to make sure what I show you today is still there. It is, a year later. The same drain in the same condition, broken, dismantled. There are three drains in similar condition within 50 yards of this one, all disconnected, all draining into the Bay. It's shameful, really. We urged in our comments on the EIR, scope of the EIR, that the following be addressed: Maintenance failure, equipment failure, intentional illegal discharge. They aren't addressed in the EIR in any meaningful way. Cumulative effects of activities in the Wharf are not adequately considered. This drain isn't fixed either, a year later. The point is responsibility, Port responsibility. Water quality in the harbor is bad, and it doesn't have to be that bad. The second point is that water in Fisherman's Wharf Harbor ebbs into Aquatic Park and it is a city beach. The Army Corp. model that I have here and I'm circulating shows you that, shows water moving out of the harbor into

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Aquatic Park right up onto the beach. We know that to be so because we smell it, we see it. It is a fact that water from Aquatic Park receives the harbor water.” (Margaret Reilly, verbal comments)

“I hope that the Port Commission took a walk down Jefferson Street a few weeks ago between Hyde and Leavenworth Streets to look at the water where the fishing boats are. That water is absolutely disgusting. Garbage, oil, scum, and that's just the pollution you can measure with your eye. I can hardly look at it without feeling ill. Every time the tide rolls out, this water and other water around the fishing boats, marine gas docks and the restaurants rolls over to Aquatic Park, San Francisco's premier swimming beach. I swim at Aquatic Park and I have personally experienced the severe drop in water quality when the tide rolls out. I make every effort to avoid this ebb tide, but my schedule does not always allow it. When I swim the ebb tide, I literally hold my breath, not knowing what garbage, what oil, what smells, what tastes the brown water brings. It's gross. It's at these times that I think about the creatures who don't have that luxury of getting out of the water when it smells and feels so bad; the seals, the sea lions, the grebes, the double-crested Cormorants and, yes, even the fish that are still left, the animals who must filter this water through their systems, animals who can't come down to the Planning Commission and beg them not to pollute their environment in one more way that could one day spell the end of their residence here in the Bay. The heavy metals from the refineries, the dredging material that is dumped near Alcatraz, and, yes, even 115 more commercial fishing boats and the residue of leaky gas tanks and bilges, it all adds up.

The water quality at Aquatic Park and the north waterfront is not good now, and I do not see how it will get better by expanding these facilities. Please reconsider investing the City's money in this facility and implement programs that will improve the water quality and bring those salmon back to San Francisco Bay from Half Moon Bay.” (Megan Sullivan, verbal comments)

“No attempt was made to quantify the existing sources of pollution.” (Margaret Reilly and Roger Beers, written comments)

Response

See previous information regarding microlayer sampling, C&R page 86. The comments about unconnected drains along Fish Alley are noted and this information is added to the Water Quality Setting Section under existing conditions for cumulative impact analysis. The following is added to the second paragraph, third sentence, on page 51 of the EIR:

(including runoff from aprons along Fish Alley where drains discharge directly to the Bay)

The water quality impact assessment does include stormwater runoff and waste from fish processing activities (pages 114 and 119 of the EIR), however, the focus of the analysis is on Pier 45 because that is the area proposed for change. No changes are proposed for facilities along Fish Alley.

The Port has established an Environmental Quality Advisory Committee for the Harbor and the Committee is in the process of identifying specific actions that can be taken to improve existing conditions. Connecting the drains along Fish Alley to the oil/water separator proposed for the Hyde Street Pier could be considered as part of the improvements.

Maintenance and equipment failure and illegal discharge of fish waste into the Harbor water is addressed in the EIR on page 115, under Fuel Spills and Other Activities From Boating.

The transport of pollutants from the Harbor to Aquatic Park is addressed in C&R pages 55 to 57.

The comments relate to the existing conditions in the project area that are described in the Environmental Setting Section of the EIR, Section B. Water Quality. The proposed project would include actions to improve the existing conditions, such as: the addition of a pumpout facility for boats adjacent to the

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fueling facility; installation of an underground pipeline to connect the fueling facility with tanks along Jefferson Street (thus removing the fuel truck currently parked on the pier); adding restrooms for commercial fishermen; adding floating berths surrounded on two sides to collect floatables; increasing Harbor supervision to seven days a week, increasing the work skiff operation; providing a berthing design that would include a skirt that goes beneath the surface of the water and encloses the boats on two sides to catch floatables and help to prevent surface pollutants from being transported to Aquatic Park.

Sampling was conducted to assess water quality conditions. Sources of contributions to the water quality include general Bay activities, general dredging disposal in the Bay, the historical presence of chemical-affected sediments, fishing boat activities, marine mammal populations and others. Each of the potential sources of pollutants in the Harbor are discussed on pages 111-121 in the EIR. Since they all could contribute to the existing conditions in the Harbor, the cumulative effects are considered by sampling the receiving water (four of the sampling locations within the Harbor). Water quality parameters quantitatively measured in the laboratory samples are associated with potential pollutants from activities in the Harbor. Quantification of each of the individual sources of pollution to the Bay is beyond the scope of this EIR.

Comment

“Concerning water quality and the increased number of berths. Currently, the Harbor lacks proper facilities and oversight. This is evidenced by numerous complaints from nearby swimmers at Aquatic Park concerning water quality.” (Christopher Martin, written comments)

Response

The proposed project would both increase Harbor facilities (add a pumpout, add restrooms for fishermen, add an oil-water separator on the Hyde Street Pier, add a

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b. Water Quality-Conditions

oil-waste facility, add a fuel delivery line to an off-site fuel tank) and would increase Harbor supervision from five days a week to seven days a week.

Comment

“SERC's concern regarding need for the Port to monitor and address on-going existing pollution in Aquatic Cove and the Inner and Outer Harbors for boats, fuel facilities, industrial and fishing uses whether or not the Port Project goes forward.” (South End Rowing Club, written comments)

Response

The Port has established a Fishermans Wharf Environmental Quality Advisory Committee to provide input on the monitoring and Best Management Practices aimed at improving the management conditions and water quality in the harbor. The Committee will also provide input into the type of ongoing monitoring necessary for long-term analysis of water quality trends in Aquatic Park and the harbor areas and to identify potential ‘cause/effect relationships’ between activities in the Harbor (or other parts of the Bay) and water quality in Aquatic Park.

The Port is currently investigating the possibility of conducting a cooperative long-term monitoring effort with the City (Bureau of Water Pollution Control) and with the San Francisco Estuary Regional Monitoring Program (mussel watch) to evaluate the concentrations of bacteria and trace substances in the vicinity of the Harbor over a longer period of time (one to two years). The objective of such a long-term monitoring program would be to provide a database to identify trends in data, similar to the analysis of trends shown in the 1991-1992 coliform data. A long-term database would facilitate comparison of Harbor water quality conditions with other parts of the Bay and with conditions in Fisherman’s Wharf such as, seasonal variations, rainfall, volume of fish landed on Pier 45, tidal

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conditions, and number of boats in the Harbor. Long-term data would also facilitate statistical analysis of samples with correlated conditions in the Harbor. The need for a long-term monitoring program is not described in the EIR as part of mitigation for the proposed Hyde Street Fishing Harbor because no significant impacts were identified. Monitoring programs will be discussed as part of the Fisherman's Wharf Environmental Quality Advisory Committee.

Risk Assessment

Comment

“The Purported Risk Assessment is meaningless. Because there is no projection made of the pollutants that will be generated by the project in Aquatic Park, there is no risk assessment presented for this purpose.

The single sampling event in 1995 cannot suffice, and apparently the risk assessment inexplicably failed even to consider the one other sampling that has been done for chemical contamination these waters - the Bendix study in 1989. Although that study was flawed in many respects, it did show detection of a number of chemicals that were not found in the single sampling event in 1995 (some of which were not even tested for in 1995), including mercury, silver, antimony, barium, thallium, vanadium, two organophosphorous compounds, and phthalates. Mercury has been determined to be a carcinogen by the State of California.”
(Margaret Reilly and Roger Beers, written comments)

Response

As noted on page 15 of the Water Quality Study, “the purpose of the water sampling was to: (1) assess water quality in the project area for constituents which may be affected by the proposed project and are of potential concern to those involved in water contact recreation, particularly Aquatic Park; (2) assess water quality in Aquatic Park for constituents which may be affected by the proposed Hyde Street Harbor and Pier 45 improvements; and (3) assess water quality outside of the area of immediate concern for comparison with the project area and the Aquatic Park.” As noted on Figure 4 on page 17 of the Water Quality Study, samples were collected from six different locations including the Inner Lagoon, Outer Lagoon and Main Basin. The sampling event was designed to characterize water quality conditions that favor transport of water from the Harbor to Aquatic Park during the period of ebbing flow when water current velocities were low

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b. Water Quality-Risk Assessment

(worst case conditions in Aquatic Park). Detailed statistical evaluations of data would require significantly greater numbers of samples, which were not feasible for this study.

Analyses performed for the 1995 Water Quality Study included those chemicals identified in the S.F. Bay Basin Plan, as well as those chemicals most closely associated with the proposed project activities. Mercury, silver and organophosphorous pesticides were included in the 1995 sampling. Mercury and silver and organophosphorous pesticides were below the detection limit for all six sampling stations.

Although phthalates were detected at trace levels in the Bendix study, phthalates are common laboratory contaminants (from plasticware and gloves used in a typical analytical laboratory) and are subject to false positives. Data from the Bendix study for thallium, antimony barium, and vanadium were at or below the laboratory reporting limits and are not considered a reliable indicator of the presence of these metals.

Comment

“The risk assessment also mistakenly failed to apply the California standards for determining what is carcinogenic. Thus, nickel has been determined by the State of California to be a carcinogen, but this fact is not recognized in the DEIR, and it is not analyzed as a carcinogen in the risk assessment. There is also no mention of the fact that toluene, also detected in the sampling, has been determined by the State to be a reproductive toxin.” (Margaret Reilly and Roger Beers, written comments)

Response

Nickel subsulfide and nickel refinery dust are considered to be carcinogens by the State of California (22 CCR 12705). Nickel subsulfide is a major component of

nickel refinery flue dust. Because nickel found in water quality samples collected in 1995 is not likely to be from a nickel refinery, nickel was not evaluated as a carcinogen in Appendix E of the Water Quality Study. Nickel was evaluated as a noncarcinogen for potential health hazards (Table D-8 and Table D-9 of Appendix E of the Water Quality Study). As shown on Table 1 on Appendix E, the maximum project area concentration (ug/l) for nickel was 2.6 for the samples taken for the EIR. The Drinking Water Standard is 100 ug/l for nickel for a 24 hour average. Comparisons of the single sample event with a 24-hour average are therefore not definitive for meeting regulatory requirements.

Although the identification of tolerance as a reproductive toxin by the State of California (22 CCR 12805) was not noted in Appendix E, tolerance was evaluated as a noncarcinogen for potential health hazards (page 10 of Appendix E of the Water Quality Study). The concentration of tolerance detected in the project area is approximately one thousand times less than the drinking water standard (1000 ug/l). The consideration of nickel subsulfide and nickel refinery dust as carcinogens and toluene as a reproductive toxin are part of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65). The State of California's carcinogenic designations under Proposition 65 were considered in the development of the evaluation presented in Appendix E of the Water Quality Study, but the evaluation was not a Proposition 65 evaluation.

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c. Marine Biology-Brown Pelican and Cormorant

c. Marine Biology

Brown Pelican and Cormorant

Comment

“Finally, in Section IV-C, Marine Biology, page 71, regarding the California brown pelican, a federal and state-listed endangered species, you state that “none have been recorded in the project area.” This is not true.

Brown pelicans regularly roost on the rockfill and pilings in the project area just east of Hyde Street Pier and north of the fuel dock. I filmed brown pelicans in breeding plumage roosting in the project area on January 6, 1996 and would like to request a time slot for an IDG representative to show several minutes of footage at the public hearing on June 6th. After the public hearing I will provide a VHS copy of this footage to the Planning Department.” (J. Irving, written comments)

“Relative to biology, and this is extremely important, the Draft Environmental Impact Report fails to identify the presence and the impact to endangered species and species of special concern in the project area. The DEIR is wrong in stating with regard to the state and federally listed California brown pelican (*Pelecanus occidentalis californicus*) that none have been recorded in the project area. The California brown pelican does occur within the project area. This documented fact is not correctly reflected in the DEIR. The assertion is not supported by the facts. OER will receive letters from Audubon Society concerning that fact. The double-crested Cormorant also occurs within the project area, and there are no mitigation measures with regard to any of these because these are omitted from the document.” (Aaron Peskin, verbal comments)

“The fact that the DEIR fails to note the presence of this endangered species is a "significant effect" under CEQA and constitutes "significant new information" (§15087, CEQA Guidelines) and subject to additional public review and comment.” (David Behar, written comments)

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c. Marine Biology-Brown Pelican and Cormorant

“In addition, the DEIR fails to note the documented presence of the double-crested cormorant (*Phalacrocorax auritus*) a California Department of Fish and Game Species of Special Concern, which regularly roosts on the breakwater at the northern boundary of the Project area. This has been confirmed by the Audubon Society (letter to Sharon Rogers dated May 23, 1996).” (Laura Taylor, written comments)

Response

In response to the four comments above, regarding the observed presence of the brown pelican and the double-crested cormorant in the project area: the Draft EIR reported both of these species as characteristic of open water habitats in the San Francisco Bay (page 68 of the EIR). The EIR states that “Although the California brown pelican does not nest in the area, San Francisco Bay is used by this species for foraging and roosting.”

The following text is added to the EIR, page 71:

Under the Double-crested Cormorant, a sentence is added at the end of the paragraph.

The California Department of Fish & Game recognizes several healthy colonies of Cormorants in the Bay Area. The species typically perches on man-made structures that are inaccessible to humans, such as bridges and transmission line towers. Cormorants have been observed perching (resting) on the breakwater in the project area.

Under the California Brown Pelican, the DEIR text “None have been recorded in the project area.” Is replaced with:

The California Brown pelican breeds in nesting colonies on islands from the Channel Islands off the coast of Southern California southward to Mexico. Breeding typically occurs between December and July. Nesting colonies are extremely sensitive to human disturbance. An unattended egg is vulnerable to heat stress and can die within 30 minutes if the adult is flushed from the nest by the presence of humans or their pets.

During the non-breeding periods, individuals and groups of pelicans disperse along the west coast from British Columbia, Canada to Central America. Non-breeding pelicans may

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c. Marine Biology-Brown Pelican and Cormorant

congregate in groups at specific locations called roosting sites. Pelican roosting sites have been identified in several locations in the San Francisco Bay and are typically located on islands or breakwater structures which are not accessible to humans. An individual pelican is likely to perch on pilings, piers or floating structures. This perching activity by an individual or small group of pelicans is not considered roosting. (source: Wilcox, Carl, Environmental Services Supervisor, California Department of Fish & Game, Region III, personal communication with Patricia Mosley, Biologist, Woodward-Clyde Consultants, July 5, 1996.) California brown pelicans have been observed perching on pilings adjacent to the existing fueling station in the Main Basin of the Hyde Street Harbor and this activity has been recorded on video film dated January 6, 1996 (Judy Irving and Christopher Beaver).

The above clarification of information in the circulated EIR does not represent new information that would require recirculation of the EIR. The Draft EIR was circulated to US Fish and Wildlife Service and California Department of Fish and Game (see distribution list page 189) for review and comment.

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c. Marine Biology-Sea Lion

Sea Lion

Comment

“A swimmer was attacked by a sick seal lion resulting in injuries requiring many stitches. Sea lions and harbor seals create excrement which, in concentration would increase bacteria in the Harbor area (pp. 71, 124). Yet the project's potential to draw more of these populations to the Project area is not analyzed sufficiently in the DEIR.” (Margaret Reilly and Roger Beers, written comments)

Response

Discussions with Dr. Laurie Gage, DVM of Marine World USA, in response to this concern, revealed that sea lions would shy away from active boat use in the harbor and would continue to be attracted to the haul out area at Pier 39 where they are undisturbed. In addition, the increased supervision of the harbor area by Port personnel would help prevent the illegal feeding of sea lions in the harbor.

d. Hazards

Comment

“Page 103, Figure 16- Bell Smoked Fish- a label, but what is the boundary of the building?”

(Sue C. Hestor, written comments)

Response

Figure 16 is revised to include an insert showing the property boundary of the Bell Smoked Fish Building.

4. ENVIRONMENTAL IMPACTS

a. Land Use / Visual

Comment

“Furthermore, the document does not appear to include a discussion as to whether the proposed project is consistent with the various Commissions laws and policies which apply to the Bay, the shoreline and the San Francisco Waterfront. On page 30, the DEIR states that the proposed uses for Pier 45 may not be consistent with BCDC Special Area Plan policies for the waterfront if the public access does not meet the Commission's policies or if the uses over new pilings are determined to be non-water-oriented. The Final EIR should expand its discussion in Section IV-A. (page 110) and briefly summarize whether the proposed project would be consistent with the McAteer-Petris Act, the *San Francisco Bay Plans*, and the *San Francisco Waterfront Special Area Plan*. While the proposed project does not, at this time, appear to raise significant conflicts with the Commission's laws and policies, major issues the Commission would need to consider in reviewing the proposal are as follows. First, more detail would ultimately be needed on the types of uses to be proposed on "new" Bay fill to ensure that they are water-oriented, or that they would qualify as a minor fill to improve public access or shoreline appearance, and that the proposed fill would meet all the criteria spelled out in Section 6605 of the McAteer-Petris Act and the policies in the *San Francisco Bay Plan*. In addition, depending upon the amounts of solid fill proposed and its potential impacts, mitigation to offset the loss of Bay surface area and volume may be required. Second, the proposed project and its public access component would likely be brought before the Commission's Design Review Board for a recommendation as to whether the proposed public access would be appropriate in light of the applicable policies. Lastly, while the DEIR appears to contain extensive analysis on water quality and potential impacts from the proposed project, we urge you to continue exploring ways of improving water quality in the vicinity for this area supports many highly visible beneficial uses of the Bay, as identified in the Regional Water Quality Control Board's Basin Plan. The Commission relies in

large part on the advice, policies and recommendations of the Regional board to carry to its water quality responsibilities.” (Nicholas Salcedo, BCDC written comments)

Response

The DEIR (pages 27-30) acknowledges that there may be issues of compliance with BCDC regulations, depending upon the final project for the Sheds A and C. It is further stated that BCDC permitting would be required for this project, and at the time that the application is made detailed analysis of compliance with the BCDC plans would occur. The issues around improving water quality are addressed in the C&R pages 170, 183, and are the subject of ongoing scrutiny by the Fishermans Wharf Environmental Quality Advisory Committee.

Comment

“The DEIR should discuss whether the portion of the proposed project which would occur within the park priority use area are consistent with the park priority use designation, and whether the proposed facilities would be consistent with the Commission's Bay Plan policies on recreation.

The San Francisco Waterfront Special Area Plan provides that at Pier 45, public access, boat slips and maritime activities are permissible uses on new or replacement fill. The plan also includes a footnote which states that:

The provisions of the Special Area Plan relative to Pier 45 are based on the assumption that new uses on the pier can be accommodated without structural improvements to those portions of the pier on pilings over the water. If reuse, in fact, required new pilings to be driven in the water, uses over the pilings would have to be water-oriented. In this case, the Special Area Plan policies, recommendations and map provisions for Pier 45 will become inapplicable and new policies recommendations and map provisions would have to be adopted as an amended to the Special Area Plan.

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a. Land Use / Visual

The DEIR should discuss whether the project would be consistent with the requirements of the Special Area Plan.” (Joseph LaClair, written comments)

Response

Depending upon which of the combinations of uses is finally proposed to be carried out by the Port for Pier 45, consistency with the Special Area Plan would have to be determined by BCDC at the time that a permit application is filed with them.

Comment

“The DEIR fails to adequately consider changes in land use resulting from converting Pier 45 Sheds A & C from their historical fishing-related uses to a shopping center for tourists. The DEIR's statement that the proposed uses for Shed A & C do not "substantially change the character of the vicinity" (pages S-7, see also page 110) is incorrect and is contradicted by other information in the DEIR. The fact that the ". . . project would . . . require conditional use authorization if non-maritime related uses (meeting facilities, retail, food service) are included" as well as an amendment to the Northeastern Waterfront Area Plan of the City's Master Plan, Proposition H review and special Planning Commission review (DEIR, page 39) are clear indications that the proposed Project for Pier 45 represents a significant land use change. The environmental impacts of this significant change in land use have not been adequately addressed in the DEIR as required by CEQA.” (Laura Taylor, written comments)

Response

The uses that are the preferred alternative (submitted by the Port in a letter dated June 5, 1996) for Pier 45- Sheds A and C now would include some fish processing and ancillary activities such as gear storage.

The proposed Waterfront Land Use Plan, however, is seeking to broaden the uses that would be allowed and would include the following: “give priority to fishing

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4. Environmental Impacts

a. Land Use / Visual

industry uses in Sheds B and D of Pier 45, and to permit maritime offices; retail, research, educational assembly and entertainment and institutional uses; parking; and visitor centers compatible with the fishing industry in Sheds A and C.”(Reference: Proposed Waterfront Land Use Plan EIR, p. 369)

Comment

“There is no reason this beach should be impinged upon or obliterated, and I would ask that the final EIR look at that and see to it that our use of the area, which is on par with the swim clubs, be considered.” (Sharon Alexander, verbal comments)

Response

As discussed on p. 14 of the EIR, the proposed harbor plans include relocating the existing rock fill and replacement of the existing timber pier structure with concrete piles over the existing beach area. The Port does not anticipate any beach area remaining for use by recreational canoeists between the Harbor and the Hyde Street Pier. Existing recreational use of the beach is occurring without knowledge or approval from the Port Commission.

Comment

“Finally, the EIR on this project should be deferred until the Port's Waterfront Land Use Plan and final Master EIR are completed and brought to you for review. We have extensive additional comments and will submit them.” (Aaron Peskin, verbal comments)

“This project, as well as the other existing and prospective land uses in the Fisherman's Wharf area, are the subject of the broader Draft Waterfront Land Use Plan (the "Waterfront Plan") mandated by Proposition H. The Waterfront Plan will establish definitions for water dependent and maritime uses and will identify acceptable uses for the waterfront including the project area.” (Margaret Reilly and Roger Beers, written comments)

Summary of Comments and Responses

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4. Environmental Impacts

a. Land Use / Visual

Response

This project, in its various iterations predates, and informed the relevant sections in the proposed Waterfront Land Use Plan and Draft EIR. There are no inconsistencies between this proposed project and DEIR and the proposed Waterfront Land Use Plan and its DEIR.

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b. Water Quality Impacts - General

b. Water Quality Impacts

General Water Quality

Comment

“Project components which constitute change or increase. Hyde St. Fishing Harbor Berths and Associated Service Facilities:

1. 40 additional berths and 20 additional side/stern tie spaces off Hyde Street Pier which:
 - a. increase spaces available for lease for commercial and sport fishing boats and other vessels from 116 to 176.

Note: 116 vessels pay rent on berths or space. 12-14 more chronically tie up in the harbor (apparently non-paying). On a seasonal basis, there may be up to 50 “transient” vessels in the Harbor. It is only occasionally (at the height of the herring season) that there may be up to 170 vessels in the harbor at any one time. (S-1 figure 1s. p. 1; p. 1; WQS p. 4)

- b. Place 60 boats in a new location (and in a tidal area); (S-1, S-4, p. 16 Tables 3, 14; WQS p. 4.
 - c. Provide attractive sea lion and harbor seal haul out areas (pp. 71, 125; WQS Appendix F p. 5 and Appendix G p. 7)
2. Bay fill/coverage of 22,723 sq. ft., including 715 cu yds of fill within the shoreline band. (S-4, 14, 16 Figure 6, 17 Table 3)
3. Relocation of rock fill. (S-4, 14, 16 Figure 3, 17 Table 3)
4. 21 vehicle parking space (5 currently exist): On Hyde St. Pier and relocated fill. (S-5, 16 Figure 6, 20)

5. Bay discharge outfall: Location unknown. To discharge runoff from the work dock, gas dock and the vehicle parking area on Pier. (S-4, 16 figure 6, 20).
 6. A work dock: foot of Hyde Street Pier. (S-4, 16 Figure 6, 20)
 7. 3,000 sq. ft. of public access: Foot of Hyde St. Pier. S-4, 16 Figure 6, 20)
 8. 200 sq. ft. restroom: At fuel dock. (S-4, 16 Figure 6, 20)
 9. Vessel sewage pump out station at gas dock. (S-5, 16 Figure 6, 20)
 10. Replacement fuel pipeline from fuel tanks on Jefferson Street to fuel dock at foot of Hyde. (S-4, pp.16 figure 6, 20, 108, 157 Item 12)
 11. A locked gate barring public access to the new dock (the work dock) and new berths (Location not shown on Figure 6, 20)
 12. 24 vehicle parking spaces: At Bell Fish building (to be demolished). (S-4, 16, Figure 6, 21).
 13. Dredging 20,000 cubic yards of bottom sediments. (p. 124. Appendix B)
- Pier 45 sheds A & C and East Apron (145,000-190,000 sq. ft.: (S-1; WQS p. 5)
14. Fisheries Center (in sheds A & C) S-1

*Visitors Center 25,000 sq. ft.

*Conference Center - 20,000 sq. ft. (Alternatives are Ed Center and no conference center or conference center and no visitor center)

*Retail space - 40,000 sq. ft.

*Office space - 10,000 sq. ft.

*Parking (for above uses) - 50,000 sq. ft. . “

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(Margaret Reilly and Roger Beers, written comments)

Response

The listed items do constitute project components that would be different from the existing situation. However, the changes referred to have not been found to be of such magnitude that “significant impacts” would result.

In response to the numbered items listed in Appendix ‘C’ of the commenters written comments, several of the physical changes are incompletely or incorrectly described :

1. The EIR identifies the existing use of the Harbor as 116 lease spaces, plus about 14 rafted boats, plus up to fifty seasonal boats, for a total of 180 boats. This estimate does not include boats that use the Harbor to unload fish at the apron of the Sheds B and D, and then leave the Harbor. The Harbor has been used historically by commercial fishing boats. The proposed use does not represent a change to the existing use of the Harbor. Also, the boats in the Harbor use the Main Basin (the location proposed for the new berthing system) to access the fueling facility and the Outer Lagoon. With reference to the sea lions, the EIR points out on page 125 that “docks occupied by boats, with human activity, would not be likely to attract sea lion use”, unlike the vacated docks at Pier 39 used by sea lions.

2. Table 3, page 17 presents a description of the Bay and Shoreline Band Fill (by BCDC criteria) for the proposed project. Table 16, page 179 shows the comparison of fill and cover for the proposed 60 berth project and the originally proposed 88 berth Harbor facility.

3. Existing rock fill would be relocated, the reconfiguration of the rock fill would fill the existing gap between the Harbor and Hyde Street Pier.

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4. The parking on Hyde Street Pier fill is discussed in the EIR, page 21.
5. The project does not include a discharge outfall. An oil/water separator is proposed (similar to the existing oil/water separator in the 'valley' of Pier 45) for the paved area adjacent to the fuel dock.
6. The EIR description of the work dock area has been augmented to add: "The work dock area would include space for public access, a hoist and net roller. The 30' x 50' area would be used to transfer supplies from boats, layout and repair fish nets and fishing gear."(page 20 of EIR, last bullet)
7. The 3,000 square feet of public access is described on page 21 of the EIR, not page 20.
8. The 200 square foot restroom for fishermen is proposed near the fueling area.
9. The vessel pump-out would be 20 gallons per minute capacity and would be connected to the City's sanitary sewer system.
10. The proposed fuel delivery pipeline (140 feet long) would include automatic shut off features, a leak detection system, remote operated shutoff switch and pressure sensitive valves.
11. The location of the security gate at the shore end of the berthing pier has been added to Figure 6, page 16. It is described on page 18, not page 20 of the EIR.
12. The reference to the 24-space parking is correct.
13. In addition to the discussion of dredging referenced in the commenter letter for page 124 in the EIR, dredging is also discussed on page 121 of the Water Quality Section, under Construction Impacts. Permit conditions for dredging are included in the discussion and short-term, localized effects to the Bay water quality are discussed.

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14. The Fisheries Center description in the EIR is on page 21-23, Project Description. A brief reference to the use of Sheds A & C is on page S-1. Please note that the proposed use has been modified by the Port, as described under Section D, Staff Initiated, page 130, and as shown in the revised text of the EIR.

Comment

“Activities identified as potentially causing water quality impacts to the project area and adjacent Aquatic Park. (See: DEIR p. 111; WQS p 34).

- Fish handling/processing: improper waste disposal
- Pier washdown
- Pier storm runoff
- Vessel presence and operations: bilge discharge, fueling activities, equipment failure, maintenance activities (e.g., lead paint), fuel spillage, fuel leakage.
- Intentional vessel discharges: human waste, fish waste, washdown (detergents, bacteria and other chemicals), jettison of other wastes.
- Berth and vessel runoff
- Litter and trash in the project area
- Dredging
- Bay fill
- Construction related activities. “

(Margaret Reilly and Roger Beers, written comments)

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b. Water Quality Impacts - General

Response

As the commenter correctly points out, each of the bulleted items above are addressed in the water quality impact discussion starting on page 111 of the EIR.

The outcome of the examination of the possible effects from each of these cited activities is that there would not be significant water quality impacts from the levels of activity anticipated.

Comment

“Also, there is a conclusion that if this project went forward, it will not negatively affect the water quality in the area, but I'm concerned about whether the project can actually improve the quality of the water in the area by perhaps some design. And, also, is there a way to address the water quality within the inner room (lagoon). I notice that's a problem. And perhaps is there a way to divert the flow of the water away from Aquatic Park so it goes out more to the Bay? And negative impacts that are perceived by the recreational users of the area need to be addressed. But I would like to have those comments addressed, please.” (Hector J. Chinchilla, verbal comments)

Response

A number of the water quality issues relate to past and present conditions in the harbor. The proposed project would provide substantial improvements to the existing conditions. For example, the proposed improvements to the existing fueling facility (that is located closest to Aquatic Park) would connect the fueling dock with off-site fuel tanks (located along Jefferson Street) by adding an underground pipeline along the alleyway. The proposed improvements to the Hyde Street Pier also include a vessel pumpout and a restroom for boat operators and fishermen, thus minimizing the illegal disposal of human waste into the Bay. An oil-water separator is also proposed for the paved area of the Hyde Street Pier,

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b. Water Quality Impacts - General

improving the existing condition where stormwater from an area routinely used by vehicles now washes into the Bay. Finally, the proposed berthing design for the commercial fishing boats is a design that includes a flexible skirt on three sides of each berth that would serve to capture 'floatable' debris and help to keep it in the harbor where it would be picked up each day by the work skiff. These, and other measures to improve the existing conditions in the harbor, are discussed starting on page 167 of the EIR. In addition, the recently created Fishermans Wharf Environmental Quality Advisory Committee is working with the Port, the National Park Service, San Francisco Recreation and Park Department and Bureau of Water Pollution Control to identify ways to improve existing conditions and monitor the effectiveness of the improvements.

In response to the question about trying to divert the water flow away from Aquatic Park, two features of the proposed Harbor design may, in part, effect the direct flow of water to Aquatic Park under the Hyde Street Pier. The first design feature is the flexible skirt on the floating docks that would help to prevent 'floatables' from moving outside of the Harbor. The second feature is the reconfiguration of the rockfill (shown on Figure 6, page 16 of the EIR) that would help to block water from the Outer Lagoon flowing into Aquatic Park.

Comment

"As users of the Aquatic Park, the specific issue that we address concerns the adequacy of the DEIR for the Hyde Street Fishing Harbor/Pier 45 Sheds A and C project. After careful review, we have concluded that the DEIR is grossly deficient in many respects and is not a document that we can support. It glosses over issues relating to water quality, which is the utmost important to the South End, does not review other possible alternatives and deals inadequately with other impacts." (Laura Taylor, written comments)

Response

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b. Water Quality Impacts - General

Water quality is the topic of a majority of the discussion in the Setting, Impact and Mitigation sections of the EIR, providing substantial information on the physical conditions, regulatory framework and water quality sampling data, and factors in the Harbor that affect water quality. The EIR is backed up with a separate Water Quality Study and eight appendices containing detailed information on water quality. No significant water quality impacts associated with implementation of the proposed project were identified in the EIR that warranted further studies, which is the same conclusion reached in 1990 by another technical team (Bendix Environmental Research, Inc) analyzing the impacts of a larger project.

In response to the comment about alternatives, the EIR includes one alternative for the Harbor and two alternatives for Pier 45 and provides information to describe the differences between the alternatives and the proposed project and no project (Section VII, pages 175-188). The Harbor alternative is the original 86 berth design, plus 10 side tie spaces and 10 stern tie spaces for commercial fishing boats, and a new Harbormaster Building on a new fuel dock. This larger project was originally proposed as the preferred project by the Port (see Appendix A- Initial Study) and is included in the EIR for informational purposes. Because no significant environmental impacts are identified for the proposed 60-berth Harbor and Pier 45 uses, no other alternatives are required. CEQA (Section 15126(d)) describes the purpose of alternatives to the Proposed Action as: "Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources Code Section 21002.1), the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly."

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4. Environmental Impacts
b. Water Quality Impacts - General

Comment

“Water quality will be significantly impacted by the Project. CEQA provides that a project will have a significant effect on the environment if it will “[s]ubstantially degrade water quality...” (CEQA Guidelines, Appendix G (f)) or “[c]onflict with established recreational...uses of the area...” (CEQA Guidelines, Appendix G (w)). CEQA further requires that the DEIR clearly identify and focus on any “health and safety problems” which could be caused by a project (CEQA Guidelines, §15126(a)).

The DEIR’s statement that “no significant impacts are identified for water quality...these areas do not require mitigation...” (DEIR page 165, see also pages S-13 and 111) is not supported by the facts. Numerous activities associated with the Project are identified in the DEIR that could cause water quality impacts in the Project area and in Aquatic Park including fish handling and processing activities, fuel spillage and leaks (including bilge water) from vessels, fueling activities, equipment failure, maintenance activities, pier and boat deck runoff and washdown discharge directly into the Bay, trash and litter generated by harbor users and visitors, effect of dredging, filling and other construction activities including placement of fill and rock materials, removal of existing piles, and installation of concrete piles. (DEIR, page S-7, 111). Also of concern to swimmers are the water quality impacts associated with the proposed work dock which impacts are not even mentioned in the DEIR (see Part III.B, above).” (Laura Taylor, written comments)

Response

The 1996 Resources Agency proposed revisions to CEQA Guidelines for Determining Significant Effects (Section 15064 (c)) reflect that “lead agencies are not required to consider an effect to be adverse based on opinion not supported by facts”. The proposed revisions for subsection (e) “requires lead agencies to use previously reviewed regulatory standards as a threshold for determining significant effect on the environment. These standards already reflect a well-

considered determination of what is appropriate to require for resource protection.”

The commenter does not provide any facts to support a determination that water quality would be significantly impacted by the project. The EIR does provide data (facts) to show that Basin Plan Water Quality Objectives and EPA Water Quality Standards are not exceeded under existing conditions, and that the use of the Harbor will not substantially change from the uses that have been in the Harbor for decades. Thus, water quality would not substantially change (and should improve with the proposed pump-out facility, skirted berths for boats, an oil-water separator on Hyde Street Pier, expanded supervision of the Harbor, and a restroom for boat operators) from existing conditions.

A Public Health Evaluation of Water Quality was conducted by SOMA Corporation (Appendix E of the Water Quality Study) that evaluated the risks associated with swimming activities in the Bay waters of Aquatic Park based on potential incidental ingestion of water during swimming and dermal absorption routes of exposure. This analysis is summarized on pages 54-56 of the EIR. The calculated risk associated with swimming in Aquatic Park is lower than the “significant risk level” established by the Safe Drinking Water and Toxic Enforcement Act of 1986 (Prop 65) which is one excess case of cancer in an exposed population of 100,000 persons.

The 30’x 90’ work dock area would be for transferring supplies to boats, laying out and repairing fishing nets and fishing gear. The space would also serve as public access to the pier and would be under the supervision of the Harbormaster. No water quality impacts would result from the proposed activities in the work dock area; nor would there be any danger to swimmers in that it would be located on Port property on the east side of Hyde Street Pier, on the opposite side from where the swimmers enter and exit the water.

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b. Water Quality Impacts - Fish Processing

Fish Processing

Comment

“Second, even the analysis of the fish landings is limited to a survey of the trend in fish landings at other ports. The inference that is drawn from this survey is that “since other ports in the area also experienced a similar decrease in fish landings, the decrease in fish landing poundage received at the Hyde Street Harbor/Pier 45 was apparently due to factors in addition to earthquake-related relocations” and that the completion of these “would not be expected to be sufficient incentive for fish landings to return to pre-earthquake levels.” DEIR at 113. However, this is largely speculative, since the data does not allow any conclusion as to whether declines at other ports would have been larger without relocation of the industry from Fisherman’s Wharf, and whether there will be a return of at least part of this industry with the upgrade of facilities in the Project.” (Margaret Reilly and Roger Beers, written comments)

Response

The EIR presents fish landing data to show the general decrease in fish landings in the Bay area, unrelated to Pier 45, to make the point that it is unlikely that the future fish landing volumes at Hyde Street Harbor/Pier 45 would return to the 1988 levels that preceded the earthquake repairs, even with the proposed improvements. The EIR, page 113, does however point out that “improved berthing for commercial fishing vessels and improvements to harbor facilities would likely encourage the return of some of the fish handling activities to the Fisherman’s Wharf area”. The EIR goes on (page 114, second paragraph) to describe that “there is no indication of a relationship between levels of coliform data in the harbor waters and fish landing data or fish processing activities. Other sources of coliform bacteria are known to be present in the project area, such as wet weather sewer overflows which contain untreated sewage diluted with rainfall and urban runoff.”

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b. Water Quality Impacts - Bacteria/Coliform

Bacteria/Coliform

Comment

“Attempted correlations in the DEIR between fish landings and bacterial count are also meaningless since fish landings account for only a small percentage of the seafood actually handled and processed in the project area. (The Port does not keep records on the volume of seafood trucked in, but should be required to). Moreover, “landing” fish is only one of the many other potentially bacteria producing activities occurring in the project area.” (Margaret Reilly and Roger Beers, written comments)

Response

The EIR does not attempt to correlate fish landings with bacterial counts but does present a statistical analysis of coliform data that correlates wet weather sewer overflows containing untreated sewage diluted with rainfall and urban runoff measured at two control points west of Aquatic Park with water quality information from a monitoring station in Aquatic Park. This information is presented in detail in the ‘Statistical Evaluation, Aquatic Park Coliform Data’ by SOMA Corporation, April 1995, in Appendix G of the Water Quality Study completed as technical backup to this EIR.

Comment

“The DEIR fails to consider the Project's potential to increase bacterial sources such as:

1. material increases in impermeable surfaces that will produce direct run off to the Bay (60 new berths; 60 vessels supplied with new wash down capability);
2. increased parking;

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b. Water Quality Impacts - Bacteria/Coliform

3. increased discharge and wash down associated with increased year round berth occupancy (176 year round berths vs. 116 berths plus 12 to 60 transient an seasonal vessels).
4. increased fueling;
5. increased vessel pump out (and attendant spills). “

(Margaret Reilly and Roger Beers, written comments)

Response

The EIR analyzed each of the potential sources of bacteria in Bay water and found the most direct correlation between elevated levels of bacteria and wet weather sewer overflows that contained untreated sewage diluted with rainfall and urban runoff. Water quality data from sampling of six stations in the project area showed bacteria levels within Aquatic Park within Basin Plan criteria for water contact recreation and lower than bacteria levels from stations within the Harbor. The statistical analysis of a year of bacteria data from samples taken in Aquatic Park and stations to the west showed a statistically significant correlation of levels of coliform with rainfall data from a previous 24-hour period for the three stations. Correlations between coliform levels in the project area (Inner and Outer Lagoons) and rainfall were not statistically significant for the same period. None of the data available showed a direct correlation between commercial fishing activities in the Harbor and bacteria levels in Aquatic Park. Additionally, the proposed project is designed to accommodate commercial fishing boats that currently use the Harbor to access existing fish processing facilities in Sheds B & D or come to the Harbor for other purposes (fueling, ice, etc.) There is no evidence that the proposed project would attract 60 new boats that have not historically used the Harbor. The proposed project includes features, such as the oil/water separator, pumpout, and restrooms for boat operators that are designed to improve existing conditions in the Harbor.

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b. Water Quality Impacts - Storm Water

Storm Water

Comment

“The real issues to be addressed here are how much extra discharge to the Bay will result, and what are the cumulative impacts of this additional burden on the sewer system.”

“Impacts from Pier and boat deck runoff and wash down. As the Dolphin Club emphasized in its Scoping comments, this is another major source of water pollution which must be adequately assessed in the EIR. The DEIR admits that while Project drainage systems would address some of the current contamination problems, the pier outer aprons and other areas would continue to drain directly into the Bay. (p. 119-20). Clearly, such runoff presents a real possibility of significant impacts to the environment that must be considered in the EIR.

The DEIR acknowledges that another source of pollution in addition to the runoff from pier aprons is the “washdown water from boat maintenance and cleaning.” (p.115). however, this impact is not analyzed at all in the DEIR. This is so despite the fact that the earlier Negative Declaration stated that an increase in boats will mean an increase in “bacterial pollution from fish waste and chemical pollution” resulting from deck washdown. The same is true of pollution from bottom paint peeling. Moreover the Negative Declaration admitted that such impacts cannot be quantified. Neg. Dec., at 17. This clear expression of project impact cannot be ignored as the DEIR does.”

“[T]he residence time in the Bay east of Pier 45 is 1 or 2 hours, compared to 1 to 2 days and 2 to 3 days for the Inner and Outer Lagoons, respectively” (WQS p. 13). Any runoff and discharges from the berths or the vessels berthed in or tied to them will flow directly into Aquatic Park. The proposed flexible "skirt" can, at best, catch floating objects, not contaminants. The EIR fails to evaluate the water quality effects of placing vessels and berths in this new locations.” (Margaret Reilly and Roger Beers, written comments)

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b. Water Quality Impacts - Storm Water

Response

The EIR describes stormwater runoff on page 127 and states that the estimated increase in impermeable surfaces associated with the floating berths and walkways would not affect the existing combined stormwater sewer collection system since runoff would drain directly to the Harbor. Similar to existing conditions, runoff from the proposed harbor improvements would not contribute to the stormwater / sewer system.

The EIR identifies runoff from the existing aprons on the east and west sides of Pier 45 as the areas that would continue to flow directly to the Bay. Water quality information did not identify pollution exceedences of Basin Plan criteria under existing conditions and no changes are proposed for the Pier aprons that would change the existing extent of apron area (or the use of the aprons). The EIR identifies runoff from boat maintenance activities as one of several potential sources of existing discharges to Bay water. Water quality was sampled and was found to be within Basin Plan water quality objectives, and with the exception of dissolved copper levels at two of the sampling stations, the data do not exceed the U.S. EPA water quality standards. The quality of water in the project area is generally within the same range as water quality data from nearby parts of San Francisco Bay collected in 1993 as part of the Regional Monitoring Program. (page 50 of the EIR). The Hyde Street Pier would add impermeable surface, but would also add an oil-water separator to improve existing stormwater runoff conditions adjacent to Aquatic Park. As described on page 14, third paragraph, the floating docks would add an estimated 17,700 sq. ft. of impermeable surface. Runoff from the floating berths (dock) is discussed in the Water Quality Impacts Section of the EIR, on page 120, first paragraph. The conclusion is that 'water quality effects associated with discharge of stormwater to the Bay would not be expected to change substantially from the existing conditions.'

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b. Water Quality Impacts - Storm Water

The EIR identifies washdown water from boat maintenance activities as one of several potential sources of existing pollution to Bay waters. The water quality information resulting from sampling within the Harbor showed water quality within Basin Plan criteria.

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b. Water Quality Impacts -Boat-related / Use of Harbor

Boat-related / Use of Harbor

Comment

“The DEIR incorrectly dismisses most of the project's potential environmental impacts. The majority of the project's potential environmental impacts, including the majority of the water quality impacts, which are of gravest concern to swimmers, were determined not to be significant based upon the DEIR's disingenuous and unsubstantiated assumption that the project will not generate increased use of the harbor since it is designed to accommodate the existing number of vessels currently using the harbor. It is our position that the DEIR's basic assumption that the project will not generate new or increased use of the harbor is incorrect. Rather, it appears that the project would result in the generation of new or increased use of the harbor and each of the potential environmental impacts must be reevaluated accordingly.”(Aaron Peskin, verbal comments)

“The DEIR excludes discussion of most of the Project’s potential environmental impacts based on the false assumption that the Project will not increase Harbor use. The majority of the Project's potential environmental impacts, including the majority of the water quality impacts which are of gravest concern to swimmers, were determined not to be significant based upon the DEIR's disingenuous and unsubstantiated assumption that the project will not generate increased use of the harbor because it is designed to accommodate the existing number of vessels (currently) using the harbor.

The following are examples of the impacts which are not even discussed in the DEIR:

- potential for fuel or oil spills (DEIR, pages S-8, 117-118).
- potential for waste discharge (DEIR, pages S-8, 119)
- potential for increased litter or trash carried to the Bay. (DEIR, page 120)
- potential for increased odors. (DEIR, pages S-10, 130-133)

- potential for increased demands for fire public services. (DEIR, page 128)
- potential for increased traffic and parking demand (DEIR, page S-11)
- potential for increased jobs. (DEIR, pages A-13 and 16)”.

The Project anticipates virtually continuous presence of sixty vessels (either fishing or pleasure craft). The DEIR's false premise that the Project will not generate new or increased use of the harbor because it will accommodate only those vessels which are currently using the harbor appears to be based on a series of unsubstantiated facts and assumptions.

An even if such transient vessels did rent the new spaces, there is no evidence in the DEIR to show that there are a sufficient number of such boats to fill the proposed number of new berths.” (Laura Taylor, written comments)

The assumption of no increase in vessels is contradicted by statements made elsewhere in the DEIR and is otherwise unsupported.” (Margaret Reilly and Roger Beers, written comments)

Response

It is confusing that the second commenter states that the above impact topics “are not even discussed in the EIR” and then proceeds to provide page numbers in the EIR where each is discussed.

The question about the number of existing boats in the Harbor, and the assumptions about the number of new boats attracted to the Harbor because of the proposed improvements is raised by a number of commenters. The Port does not maintain a ‘count’ of boats in the Harbor on a daily basis, so the EIR relies on information provided by the Wharfinger (John Davey) and the Wharf lease manager (Kirk Bennett) on the number of fishing boats in the Harbor and the market potential for new leases.

Based on the information provided, and consideration of the downward trend in commercial fishing (fish landing information provided by the California

b. Water Quality Impacts -Boat-related / Use of Harbor

Department of Fish and Game), and improvements made to other harbors in the Bay area (Half Moon Bay Harbor) the previous assumption made in the Moffat & Nichol feasibility study (1988) for the need for an 88 berth Harbor no longer seemed reasonable or prudent. Proposing a Harbor that would be larger than the documented 'need' would be counter to the Port's policy to maintain Fisherman's Wharf for the commercial fishing industry and counter to the tariff that gives fishing boats priority use of berth space in the Harbor. The EIR describes a 'reasonably foreseeable' Harbor for 40 berths (plus, 20 dockside spaces for boats to side-tie or stern-tie), and moves the more speculative 88 berth Harbor to the Alternatives Section VII to provide information showing comparative impacts.

The Port anticipates that the proposed Hyde Street Fishing Harbor would be used by fishing boats from 50 percent to 100 percent of the time, depending on the time of year and seasonal fishing activity. The average use of the leased space by fishing boats would be 70 percent of the year (see Table, C&R page 14). The Port anticipates that as improvements are made to the Harbor it will be able to lease space to existing fishing boats that come to Fisherman's Wharf to unload fish but presently berth in some other location in the Bay area.

A Port survey of fishing boats at other locations in the Bay area (John Davey, May 1994 Memo to D. Hodapp) identified 30 boats that could move to Fisherman's Wharf, however, the Port only expects about ten boats to move to the Hyde Street Harbor as a direct result of building the new facilities. Given that there are 116 spaces in the Inner and Outer Lagoons, plus additional berth spaces at Pier 47A and Fish Alley, an additional ten boats would be an increase of less than 9%, which does not constitute a substantial increase of boats.

Other new fishing boats may be attracted to the area in the future as the fish processors better establish themselves and the fish processing space is fully

b. Water Quality Impacts -Boat-related / Use of Harbor

leased. However, these boats would come to Pier 45 to unload fish whether or not Hyde Street Harbor is built.

In any case, it is unlikely that the number of boats would exceed or even approach the numbers using the Harbor in 1988-1990 when the fish landing data shows twice the volume of fish landed in 1995. Yet, even during the years when fish landing volumes were high, the 1991-1992 water quality information available for analysis showed seven of the 199 samples for colony-forming units of coliform exceeding the 1000 Most Probable Number (MPN) per 100 milliliter (Basin Plan Objective) for the Aquatic Park sampling station over a 12 month sampling period. There was no significant correlation between fish landing data and coliform levels in Aquatic Park for the samples analyzed. (see Statistical Evaluation, Aquatic Park Coliform Data, by SOMA Corporation, April 1995, Appendix G of the Water Quality Study completed as technical backup to the EIR).

Based on Port Field Surveys, transient berths represent 20 of the 60 berths in the proposed Hyde Street Harbor, and during herring season they are typically completely filled, and at least partially filled by fishing boats during other seasons such as salmon and crab. Transient boats are boats that are in the Harbor for one day to several weeks, but not all year.

Some of the pleasure craft that may use the Harbor during seasons with low demand by fishing boats are expected to come from Pier 39 since Hyde Street Harbor will likely charge a lower rate than Pier 39 and this area of the Wharf is a favorite location. The EIR does not consider recreational boats to have impact potential greater than what is discussed for commercial fishing boats, therefore, impacts are adequately discussed in the EIR for use of the Harbor.

b. Water Quality Impacts -Boat-related / Use of Harbor

The comments above do not provide data or factual information to support their perspective that more boats would be attracted to the Harbor by the proposed project, or that a larger number of boats, or recreational boats vs. fishing boats, would make a substantial difference in the water quality conditions in Aquatic Park. This EIR is the second time that these same comments have been responded to (the first time was in response to the earlier Negative Declaration for the proposed Seafood Center, 1990) and the same basic conclusions are made. The available data does not support a conclusion that significant impacts would result from the proposed improvements to Fisherman's Wharf. The impact analysis in the EIR focuses on the cumulative effects of the activities that take place in the project area on water quality, not on a boat-by-boat analysis of potential impacts.

Comment

"It seems highly unlikely that the proposed project would produce no increased potential for waste discharge from boats, since it would provide for the construction of new berthing facilities for a total of 60 boats. These berths would not simply ease the overcrowding in the existing berths in Fisherman's Wharf, resulting in no "new" boats tying up in this area. Rather, they would provide the potential for significantly increased waste discharge from 60 additional boats. This waste would include sewage, garbage, oil, and gas, and would drift on each ebb tide to Aquatic Park, directly west of Hyde Street Pier, which is used by boaters, swimmers, and people fishing from Muni pier.

You note that fish catches have declined 40% since 1988; why does it now seem necessary for the Port of San Francisco to expand facilities for the fishing industry? If trends continue, fish catches will only go lower." (J. Irving, written comments)

"We are concerned about the amount of increased waste discharge that would result from full implementation of this project, i.e., with 60 additional fishing boats, and the impact of this discharge on the Bay's water quality in this area. We believe that the DEIR must assume full use

b. Water Quality Impacts -Boat-related / Use of Harbor

of the boat docks and cannot assume that some boats will simply move from the Fisherman's Wharf docks. If the berths are available the DEIR must assume their full use, and must also assume full use of Fisherman's Wharf berths and cannot assume that there will be no net increase in the total number of boats, otherwise why create the berths." (A. Feinstein, written comments)

Response

A response to a change in the number of boats in the Harbor has been provided above (see p. C&R 14). The proposed project includes a pump-out facility at the existing fuel station, restrooms for boat operators and fishermen, and improved supervision of the Harbor by Port personnel. These improvements are expected to reduce, not increase, the potential for solid waste discharge in the Bay. Increased management supervision will provide the necessary enforcement of the existing Rule and Regulation (No. 847) for illegal dumping of wastes by boats into waters of the Harbor. (see page 118 of the EIR).

Comment

"For example, commercial fishing vessels make extensive use of large hydraulically-powered equipment, such as wenchers or "gerties" (which drag boats use to pull nets in), which require pumps using hydraulic oil. These pumps routinely seep oil on the deck, which in turn either gets washed overboard when decks are washed down, or drains into the bilge water, which is pumped overboard. Moreover, the hydraulic lines serving such pumps frequently break or require maintenance, by opening up the line. When such a hydraulic line breaks or is opened up, routinely as much as 5 to 7 gallons of hydraulic oil at a minimum are discharged. It is not reasonable to expect that these kinds of breaks or leakages will be systematically collected and disposed of onshore.

In addition, commercial fishing vessels use large diesel engines, both to power the boats and the pumps above mentioned. These engines are located inside the hull of the boat. These diesel

b. Water Quality Impacts -Boat-related / Use of Harbor

engines routinely “weep” diesel, which in turn mixes with the bilge water inside the boat and is pumped with that bilge water overboard when the bilges are pumped out.

It is also important to recognize that repair and maintenance activities are typically conducted on commercial fishing boats while in port. These activities include washing down the decks with large hoses, with the result that the oil and fuel, fish scales, dirt and other pollutants which have accumulated on the deck get washed directly into the receiving waters. In addition, when engines or pumps are repaired in Port, there is increased likelihood of fuel spillage or contamination as a result of these activities, which again either gets washed or pumped directly into the receiving waters. Another activity routinely conducted in port is cleaning out the area within the boat reserved for fish storage, commonly behind the engine room. The washing out of this area in turn creates additional contaminants which are typically pumped overboard, while in port.

In addition, commercial fishing vessels are a significant source of sewage disposal directly to receiving waters while in port. The typical fishing vessel is outfitted with a head, a “holding tank” (usually no larger than 40 gallons) to receive the sewage from the head, and a Y-valve, which allows the effluent from the toilet to be directed either to the holding tank or directly into the receiving waters. All that is required to direct that sewage into the water body is simply to turn a valve. It does not take long to fillup a 40-gallon holding tank, and when that occurs, commercial fishing vessels may then simply begin releasing sewage directly to the receiving waters.

As previously noted, that bilge water is likely to contain substantial parts of diesel and lube oil from the hydraulic pumps and engine, as well as other contaminants associated with the operation and maintenance of the commercial fishing vessel.

However, commercial fishing boats seldom make use of such facilities because of the amount of time and expense required to do so. The boat has to be started, with a sufficient crew to move it; it had to be relocated to the area where the vessel pumpout facilities are located; docked there for a substantial period of time while the pumpout is occurring, and then moved back to its berth.

Such operations can take several hours and entail obvious expense and time which many operators may seek to avoid by simply pumping out the bilge water and dumping it overboard.

It is extraordinarily difficult to police such activities. In addition, everything said above goes doubly for herring boats, which may also use the linear dock space proposed along the Hyde Street Pier during the herring fishing season. Because such boats are not locally berthed year-round, they have even less incentive to comply with any sort of regulations directed at the above problems, and do not typically have holding tanks at all for purposes of temporary storage of sewage generated on board.” (Margaret Reilly and Roger Beers, written comments)

“Impacts From Fuel Spillage and Leakage from Increased Vessels and Fueling Adjacent to Aquatic Park.

The Negative Declaration admitted that "an increase in the number of vessels in the harbor would lead to a corresponding increase in the amount of fuel sold at the fuel dock." Neg. Dec. at 16. The EIR must fully assess the level of impact attributable to the Project in this respect and the level of mitigation necessary to address this impact.” (Margaret Reilly and Roger Beers, written comments)

Response

The EIR discusses potential water quality impacts from boats, including fuel spills and bilge water, on page 115. The EIR goes on to describe the multiple regulations under the Clean Water Act and California Oil Spill Response Act that are in place to control and respond to accidents. The Port’s Oil Spill Notification procedure is outlined in the EIR, page A.39. The Port’s Environmental Health and Safety Section staff keeps detailed records of all spills that are brought to the attention of the Port. In a memo from Roberta Jones, dated August 22, 1996 responding to a request for information on the number and type of spills over the past five years, nine incidents were recorded. Of the nine incidents, two were related to bilge pumping: one in July of 1995 reported 1 gallon of oil by a fishing

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vessel in the lagoon, and one incident was reported in March of 1996 for 1-5 gallons of bilge water that was cleaned up with absorbent pads.

The EIR describes Best Management Practices for protecting water quality in Section V, pages 165-168, including spill prevention and cleanup measures.

Comment

“Again the DEIR did not take into account that some of the primary sources of this pollution would be sited closer to Aquatic Park. Finally, there is no basis for assuming that the Ports regulations would be enforced in the face of the fact that the Port’s enforcement record to date has been abysmal.” (Margaret Reilly and Roger Beers, written comments)

Response

First, boats currently use the portion of the Outer Harbor (Main Basin) proposed for the floating berths to access the fuel dock and Outer Lagoon on a daily basis. Secondly, the proposed berth design shows the boats over 100 feet from the eastern edge of the Hyde Street Pier, with a physical barrier (rockfill and dock with a flexible skirt) between where boats would be berthed and Aquatic Park. This design would be an improvement over what is there now.

The Port has demonstrated it’s commitment to improving conditions at Fisherman’s Wharf through it’s recent and continuing actions: increasing supervision; moving the Wharfinger into a permanent office along Fish Alley; improvements to Sheds B&D on Pier 45; initiating the Pier 45 Advisory Group and the Fisherman’s Wharf Environmental Quality Advisory Committee. The EIR documents the Port’s further commitment to improvements to water quality conditions in the Best Management Practices, pages 165-168.

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Comment

“By building an 80 boat marina for commercial fishermen with its added pollution from gasoline tanks, sewage, dead fish and noise in close proximity to Aquatic Park it will destroy this delicate biosphere.” (W. Sijssling, written comments)

Response

The proposed project is a 40-berth harbor, with dock space for an additional 20 side-tie and stern-tie boats. An alternative 60-berth design was submitted by the Port in response to a comment from the Crab Boat Owners Association for more space in the Main Basin. The EIR does not identify significant impacts to Bay waters or to Aquatic Park from the proposed harbor improvements.

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b. Water Quality Impacts -Dredging/Sediments

Dredging/Sediments

Comment

“The DEIR fails to make a distinction between maintenance dredging and dredging deeper bottom sediments which are more likely to contain industrial wastes deposited over a hundred years ago.” (Laura Taylor, written comments)

“F. Impacts from Relocating the Rock Fill and Adding Fill at the Foot of Hyde Street Pier.

The DEIR contains no analysis of the impact of relocating the rock and wood fill at the east side of the foot of Hyde Street Pier. The rock and wood fill currently may act as a partial barrier to tidal flow of contaminated water from the Harbor to Aquatic Park.” (Margaret Reilly and Roger Beers, written comments)

“The impacts of construction and dredging will mobilize Bay sediments which include lead-based ores, arsenic, solvents, acids, PCBs, petroleum products, paints, mercury, cyanide and other toxic, industrial wastes (DEIR, page 102, 146-162) many of which were dumped into the Bay over a century ago. Once mobilized by the dredging and construction activities and suspended in the water, tidal action will carry these toxic substances into Aquatic Park where they will endanger the health and safety of swimmers. The DEIR fails to analyze or adequately consider this critical matter, and instead dismisses it stating, “[m]inimal worker or public exposure would be expected during sediment dredging and disposal.” (DEIR, page 162). The DEIR attempts to add further justification for its failure to address the issue by making the absurd and irrelevant statement that during the maintenance dredging operation last year the “. . . Port received no complaints . . .” (DEIR, page 122). Yet the DEIR states that “. . . fish exposed to suspended sediment in the laboratory have been shown to suffer mortality as well as sublethal signs of stress.” (DEIR, page 125). It is also note worthy that the Port “will continue not to conduct dredging activities during herring season” (DEIR, page 168). The Port’s offer to “. . . coordinate with swimmers. . regarding scheduling of dredging activities to avoid conflict with

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b. Water Quality Impacts -Dredging/Sediments

scheduled activities . . ." (DEIR page 168) is meaningless in so far as the majority of swimming in Aquatic Park goes on all day long every day of the year and is not associated with a scheduled activity. In addition many users of Aquatic Park waters including children who are more sensitive to toxic exposures, are not associated with the swimming clubs." (Laura Taylor, written comments)

"The document also mentions that 20,000 cubic yards of dredging would be required to construct the new marina, but does not appear to discuss the estimated frequency and amount of maintenance dredging that would be necessary for the marina to remain navigable. If the site would have the tendency to fill up rapidly with sediment, it may not be suitable for a new marina." (Nicholas Salcedo, written comments)

Response

In response to the first and third comments, although the potential exists, there are no data to indicate that the Port would encounter sediment with elevated levels of contaminants related to historic industrial activities based on previous testing of sediments in the Harbor in the past two years. These tests, required by the Army Corps of Engineers, BCDC, Regional Water Quality Control Board and US EPA have shown relatively clean sediment chemistry to minus 20 feet in Fisherman's Wharf West Lagoon and Inner Harbor. The tests did not show levels of metals or organics that were near any regulated levels and the sediments were not toxic to aquatic life in the elutriate tests and the solid phase bioassay tests using the amphipod *Ampelisca abdita*.

The EIR determined that it was not necessary to require a hydrodynamic model of the Harbor with the proposed relocation of the rock fill and the addition of the floating berths. Figure 6, page 16 of the EIR shows the relocated rock fill as extending slightly beyond where the existing fill is located, thus it is assumed that the same, and perhaps greater barrier between the Harbor and Aquatic Park would be provided compared to existing conditions.

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4. Environmental Impacts
b. Water Quality Impacts -Dredging/Sediments

In response to the second commenter's concern about the potential of hazardous wastes identified in the Hazards Section of the EIR (pages 146-162) affecting the health and safety of swimmers in Aquatic Park; the commenter has confused dredging information with Maher/Title 22 issues. The Maher Ordinance contains standards for investigating and remediating contaminated soil within the historic tidelands of San Francisco, and it is not applicable to dredging in the Bay. Title 22 contains California's laws regulating hazardous materials and hazardous waste and it would pertain only if contamination levels in dredged material approach or exceed hazardous waste levels. In fact, the Port of San Francisco has never encountered hazardous waste levels of contamination for any constituent tested in any of its dredged materials along the Waterfront. (R. Jones, August, 1996). Further, sediment sampling reported on page 162 of the EIR for 1994, does not include elevated levels of cyanide, solvents or acids, or PCBs or arsenic in the list of toxins in bioassay tests of the Harbor (see sediment characterization, page A.35 of Appendix B in EIR).

In response to the fourth comment: it is difficult to estimate the sedimentation rate in the project area because the rate is variable and fluctuates seasonally depending upon sediment load coming in from the Delta and other factors. Also, the construction of new berths may alter sedimentation patterns. However, in general the Fisherman's Wharf area appears to have a lower sedimentation rate than other nearby areas such as Pier 35. The Fisherman's Wharf Inner Lagoon has only required maintenance dredging once within the last ten years to maintain its 20 foot depth. Other Port facilities can require dredging as often as every other year.

c. Marine Biology

Comment

“In conclusion, you also fail to note that the double-crested cormorant, a California Species of Special Concern, regularly roosts on the breakwater forming the northern boundary of the project area, along with brown pelicans and seagulls. Increased boating activity close to the breakwater would frighten these birds away from a preferred roosting site in the Central Bay.” (J. Irving, written comments)

“Under the California Environmental Quality Act (CEQA), the DEIR must address the impacts of the proposed project to the state and federally listed endangered species, avoid such impacts if possible and propose mitigation measures, if necessary.” (David Behar, written comments)

“Under the California Environmental Quality Act (CEQA) the DEIR must address the impacts of the proposed project to this state and federally listed endangered species, avoid such impacts if possible and proposed mitigation measures, if necessary.” (Linda M Sheehan, written comments)

“The DEIR must address the impacts of the proposed Project to these species. The presence of the California brown pelican and double-crested cormorant will require extensive changes to the DEIR and the Project.” (Laura Taylor, written comments)

Response

The text on page 71 of the Marine Biology Setting Section C. has been expanded to add suggested information on the Double-crested Cormorant and the California Brown Pelican to clarify that these species do frequent the area and have been observed perching on pilings and the breakwater. This clarification does not represent new information that would require recirculation of the EIR. The Draft EIR was sent to US Fish and Wildlife Service and to the California Department of

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c. Marine Biology

Fish and Game (see distribution list on page 189 of the EIR) for review and comment.

Additionally, in response to the above comments, Carl Wilcox, the Environmental Services Supervisor for California Department of Fish and Game, Region III, was contacted by the EIR biologist to confirm that there would be no impacts to these species and that formal consultation would not be necessary. The communication confirmed that the proposed project would not impact recognized roosting habitat for the California brown pelican and would not impact nesting colonies or roosting habitat for the Double-crested cormorant. Temporary displacement of the pilings (perching site) would not constitute an impact to either species. Perching habitat is prevalent in the project vicinity and the birds would likely relocate a few hundred yards away during project construction and would be free to return to perching locations after construction. The proposed floating berth would add to the existing perching locations in the Harbor.

The perching location for the California brown pelican is adjacent to the fuel dock where frequent boat activity exists. Continuation of boat activity in the Harbor would not impact these birds.

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d. Public Utilities / Public Services

d. Public Utilities / Public Services

Comment

“In addition to water quality impacts, the Project may result in a number of other impacts that require further review, disclosure and analysis in the context of the EIR. These additional potential impacts include, but are not limited to, impacts to utilities and public services, transportation impacts and noise. Because members of the Commenters will all be subjected to these impacts as well as the preceding ones, they submit that those impacts must be independently reviewed in the EIR.” (Margaret Reilly and Roger Beers, written comments)

Response

Impacts to Public Utilities are discussed on pages 126-127. No significant impacts are identified. Potential impacts to Public Services are discussed on pages 128-129 of the EIR. No significant impacts are identified. Transportation impacts are discussed in a separate technical report prepared by Kolve Engineering in consultation with the Department of City Planning, Transportation Section, and in the EIR, pages 134-144. No significant impacts are identified. Noise impacts were focused out of the EIR in the Initial Study (page A.17-A.18).

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4. Environmental Impacts

e. Air Quality / Odor

e. Air Quality / Odor

Comment

“Increased boat traffic may occur due to expanded docking facilities and project improvements. Project implementation may result in some increase in odors associated with boating and vessel activity such as diesel and/or gasoline fumes. The EIR should state the relationship of possible increases in particulates with existing air quality control measures currently regulated by the Bay Area Air Quality Control Board.” (Joanne Wilson, written comments)

Response

Odors are discussed in the EIR on pages 130-133 as they relate to fish processing. Odors from diesel fumes are not discussed based on the assumption that the existing fuel dock (adjacent to Aquatic Park) and fishing boat traffic accessing the fuel dock and lagoons would not substantially change from the existing conditions. The Initial Study indicated that demolition and construction activities would not raise dust (particulates) in the area to a level that would have significant impacts on air quality. Most of the construction activity would be in the water installing pilings and floating docks.

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f. Transportation / Parking

f. Transportation / Parking

Comment

“Traffic and circulation. “Addition of project traffic plus future traffic from potential development...would be expected to result in level of service “E” (an unacceptable level of service)” at certain intersections. Clearly, this is a significant impact associated with the Project.” (Margaret Reilly and Roger Beers, written comments)

Response

The commenter is incorrect. The traffic impacts reported in the EIR, page 140 second paragraph, state that “under the Proposed Project all intersection operating conditions would be similar to those identified for Existing Plus Project Conditions, and all intersections would operate at LOS B or better. The exception is the intersection of Jefferson/Powell/The Embarcadero which would change to LOS C under cumulative weekend midday conditions.”

The reference could have been to pedestrian impacts in an existing congested crosswalk at Jefferson and Taylor where midday weekend LOS is E. This condition would remain at LOS E for pedestrian circulation on weekends.

Comment

“There also appears to be a shortage of adequate parking for the project although the EIR tries to explain this away (inadequately). We already have an impossible parking problem with the project and this situation needs to be addressed.” (R. Miller, written comments)

Response

Parking for the fishing industry has been reported by the Pier 45 Advisory Group to be inadequate. The Port has recently initiated a special study of parking and truck circulation on Pier 45 for the fishing industry. (Rajappan & Meyer

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f. Transportation / Parking

Consulting Engineers, September 1996). The study resulted in a recommended reconfiguration of truck parking in the 'valley' and dedicated parking in Shed A of 108 industry spaces. This recommendation is reflected in the Port's suggested Alternative, described in Section D, Staff Initiated Text Changes and Errata.

Comment

"1. The proposed project will generate additional cable car ridership in Aquatic Park and contribute to existing over-capacity-conditions by generating up to 133 trips during the weekend midday peak hour. Although existing MUNI lines in the vicinity have additional capacity that may be used by increased ridership. Some increase in pedestrian congestion in transit area may occur as a result of the project. This should be documented in the EIR." (Joanne Wilson, written comments)

Response

Potential transit and pedestrian impacts are discussed in the EIR and no significant impacts are identified from changes caused by the proposed project. (pages 142-143 of the EIR).

g. Historic Resources

Comment

“The preservation of the area as authentic and historically accurate should be considered. Our club is the oldest club along the Pacific Coast even though we have not always been at the current location. However, our building, along with the Dolphin Club and Sea Scouts must be preserved.” (Lisa McCally, written comments)

Response

The proposed project is within the jurisdictional boundary of the Port of San Francisco and would not in any way change the existing Aquatic Park or buildings leased from the City by the Dolphin Club or South End Rowing Club. The proposed project is to improve existing conditions of the Harbor facilities historically used by the commercial fishing industry.

Comment

“Two buildings listed on the National Register of Historic Places will be moved as a result of the Project: The Tubbs Cordage Company office at 611 Front Street and the Lewis Art houseboat on Hyde Street Pier. Moving historic structures does result in a significant impact on the environment which must be considered in the DEIR. The fact that such structures may have been moved in the past does not negate the requirement to consider the impacts of moving them again as a result of this Project. Consultation with the State Historic Preservation Officer would be required, and, if these structures are subject to Article 10 of the City Planning Code, review by the San Francisco Landmark's Advisory Board would be required. Impacts to historic buildings and structures are also subject to Proposition M.” (Laura Taylor, written comments)

Response

The proposed project no longer includes a new two-story Harbormaster's Building on the Hyde Street Pier and would not move or in any way change or affect the Tubbs Cordage Company or Lewis Ark houseboat. The Port has coordinated with the Maritime National Historic Park to ensure that historic ships moored on the east side of the Pier (Eureka and Hercules) would have room to maneuver and that they would not be affected by the floating harbor.

Comments

"The DEIR further reveals that 4,300 square foot of the Bell Smoked Fish Building at 490 Jefferson Street would be demolished to make room for 24 parking spaces (DEIR pages S-5, 21, 37). The impacts of the Project on this building, as well as impacts on other historic buildings within the Project area as identified in the San Francisco Department of City Planning's 1976 Inventory or in its Northern Waterfront Findings Report, must be considered in the DEIR. In fact, CEQA requires the DEIR include a study to determine if any properties of historic or cultural significance may be impacted by the Project whether or not such properties previously have been designated as landmarks, listed on any historic register or identified by any previous studies.

In addition, five historic ships are a part of the National Park Service's San Francisco Maritime National Historic Park collection at Hyde Street Pier, several of which are listed on the National Register of Historic Places. Given the close proximity of the proposed Harbor expansion to these historic ships, the physical and visual impacts of the Project on these ships must be analyzed in the DEIR. The Initial Study dismisses visual impacts incorrectly concluding that "No scenic views or vistas now observed from public areas would be substantially degraded . . ." (DEIR, page A-16). A visual impact study must be included in the DEIR to determine the extent to which the Project will alter the scenic views of the historic ships as well as scenic vistas from them.

“Not only will locating a large harbor/marina facility covering a large surface area in the outer harbor a few feet distant from the historic ships and the National Park cause visual impacts to these historic resources, it may result in impacts to the condition and proper maintenance of the ships. It is our understanding that the historic ship Eureka must be turned every six months and that this will become much more difficult if the new harbor is constructed in the location proposed.” (Laura Taylor, written comments)

Response

Archaeological and Historic Consultants were retained as part of the EIR consultant team to address the potential impacts to historic properties, including the Bell Smoked Fish Building. The technical memo completed for the study is included in the Project File #93.574E, available for review in the Planning Department at 1660 Mission Street. The study concluded that the portion of the Bell Smoked Fish Building to be demolished for parking for the Harbor did not have historic integrity and would not meet the criteria for eligibility as a historic structure. Inclusion in the 1976 Architectural Inventory of San Francisco, conducted by the Department of City Planning, does not formally designate the building as historic.

The Harbor has been used historically for commercial fishing activities and would continue to be used primarily for this purpose with the proposed project. The addition of a floating Harbor would be visible from some viewing points on the Hyde Street Pier and historic boats on the east side of the Pier. The presence of fishing boats moored in the Harbor would not change the visual character of the Harbor and would be in keeping with the historic character of the area.

The EIR includes information on historic property and archaeological resources on page 171, under Mitigation Measures for construction activities. Information about the SF Maritime Historical Park has been added to the EIR (page 40) to address adjacent land use of historic significance. An architectural evaluation of

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4. Environmental Impacts

g. Historic Resources

the building at 490 Jefferson Street (Bell Smoked Fish Building) was conducted for the EIR by a certified architectural historian (Ward Hill) and it was concluded that the building was not eligible for the national Register of Historic Places due to a loss of integrity. (see project file 94.574E.)

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h. Cumulative and Construction Impacts

Comment

“I have heard that there is a proposal to build a new marina adjacent to Hyde Street Park. I know that there was an environmental impact report done. I have heard that the report does not address the multi-use aspect of the Hyde Street Park. The surrounding beaches, the swimming clubs near by, generally speaking Aquatic Park.

I ask you please, provide more research and information in the Environmental Impact Report and honestly provide the citizens of San Francisco the information relating to the effects of more motor traffic, more waste and more general dumping. Building a new marina is taking the pedestrian right away from a natural crosswalk in the San Francisco Bay. It shows lack of respect.” (Leslie Anglim, written comments)

Response

The issues identified in the comment are addressed in the EIR under Land Use (page 110), Transportation (page 134) and Litter and Trash (page 120).

Comment

“The EIR fails to adequately consider the cumulative impacts of the proposed project and other foreseeable projects.” (Margaret Reilly and Roger Beers, written comments)

Response

Cumulative impacts are discussed under relevant environmental topics. For example, traffic impacts consider growth, existing uses of Sheds B & D, the MUNI F-line, the changes to the Embarcadero and the triangle at Fisherman’s Wharf and the Pier 39 garage and Underwater World. The Land Use Section discusses the Port’s proposed Waterfront Land Use Plan. The Water Quality Section includes the cumulative effects of the proposed project in the context of

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existing boat use of the Harbor, existing fish processing and trading activities on Pier 45 Sheds B & D.

Comment

“This project, as well as the other existing prospective land uses in the Fisherman's Wharf area, are the subject of the broader Draft Waterfront Land Use Plan (the "Waterfront Plan") mandated by Proposition H. The Waterfront Plan will establish definitions for water dependent and maritime uses and will identify acceptable uses for the waterfront including the project area. The Waterfront Plan is currently the subject of a Master EIR. It seems counter-productive and premature for the EIR on this project to move forward before the Waterfront Plan and associated Master EIR are complete, particularly since portions of this project involve addition of new activities (which may or may not constitute maritime uses) on Port piers and within 100 feet of the shoreline.

Courts have held that it is ‘vitally important that an EIR avoid minimizing cumulative impacts,’ and have struck down agency decision when an EIR did not fully comply with CEQA's requirements to analyze such impacts. *Citizens to Preserve the Ojai v. County of Ventura*, 176 Cal.App.3d 421,431 (1986). The EIR in the instant case does not contain a sufficient description of cumulative impacts under either definition.” (Margaret Reilly and Roger Beers, written comments)

Response

The Waterfront Land Use Plan EIR is a Program EIR (CEQA Section 15168), not a Master EIR. The Hyde Street Fishing Harbor /Pier 45 Sheds A & C project predates and is included in the WLUP DEIR under all of the alternatives analyzed, incorporating various assumptions about the use of new berths, ranging from some use by recreational boats as an interim use (Alternative A) to full use of the berths by commercial fishing vessels (Alternative B and No Project). The

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Alternatives also assume varying levels and types of development in Sheds A&C. The No Project Alternative assumes no new development in the sheds.

The Hyde Street Fishing Harbor/Pier 45 Sheds A&C project, as with other recent proposed projects and approved projects in the area under the jurisdiction of the Port is not dependent on consideration or approval of the WLUP to proceed. The Hyde Street Fishing Harbor project is permitted under the terms of Proposition H and would be allowable under the WLUP, and could be approved with or without the Waterfront Land Use Plan in place.

The WLUP is described in the EIR on page 40, as part of the Land Use, Zoning and Plans Setting Section, and Current and Probable Future Projects in the Project Vicinity.

Comment

“At a minimum the cumulative impacts from the following projects need to be considered and analyzed in conjunction with the Project: Proposed Pier 47A upgrades, Underwater World at Pier 39, new gas storage tanks in the Fish Alley area, the above mentioned Waterfront Land Use Plan, and the Pier 45 Sheds B & D upgrades. The DEIR inadequately identifies "[c]urrent and probable future projects in the project vicinity" (pages 39 and 40) to include Underwater World Aquarium at Pier 39 and the Waterfront Plan, then fails to address their impacts combined with the impacts of this Project.” (Laura Taylor, written comments)

Response

Each of the above mentioned projects, and also the F-line and plaza improvements at the Triangle Lot, are included as part of the Setting Section of the EIR because they have been approved and some (Sheds B&D improvements, F-line, fuel storage tanks along Jefferson Street, and Underwater World) have been constructed. The exception is the Waterfront Land Use Plan and Maritime

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National Historical Park General Management Plan (added since the DEIR).

These projects are included in the traffic and parking future growth assumptions, and where relevant (existing fish processing/trading activities along Fish Alley, and Sheds B&D, and existing commercial fishing boats in the Harbor) are addressed in the water quality analysis.

Comment

“It further states in an apparent attempt to avoid considering the Project's cumulative impacts as required by CEQA that the "Environmental review of the Waterfront Land Use Plan will include a *general* discussion of potential cumulative impacts of the proposed Hyde Street Harbor and Pier 45 project: (DEIR, page 40). Obviously, a general discussion of cumulative impacts that may be included in a future document would not constitute legal compliance with CEQA's requirements for purposes of this DEIR.” (Laura Taylor, written comments)

Response

The reference to the statement on page 40 relates to the EIR being completed for the Waterfront Land Use Plan, describing that the WLUP EIR would include a Program level discussion of the Hyde Street Fishing Harbor/Pier 45 Sheds A&C. This EIR includes project specific analysis of cumulative impacts for traffic, parking and water quality.

Comment

“One, in going through the Draft EIR, the conclusion is that there is not going to be ultimately significant environmental impacts, and my concern is about the impacts during the course of construction, how long they are going to last, what their scope will be. I see multiple references to compliance with State and Federal Law and procedure, and I would appreciate a little bit fuller treatment of what the actual impacts are going to be.” (Hector J. Chinchilla, verbal comments)

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Response

Construction impacts are addressed in the Summary, page S-9 under Water Quality (as part of the dredging discussion) and on page S-12 under Hazards (as part of the utility corridor and dredging). No significant impacts have been identified in the EIR, however, measures to reduce the effects of less than significant impacts from the proposed project are described in detail in Section V of the EIR, starting on page 165.

Also, since the time of the Public Hearing and close of comments on the Draft EIR, the Port has established and funded a Fisherman's Wharf Environmental Quality Advisory Committee for Fisherman's Wharf. The committee includes members of the swimming and rowing clubs and members of the commercial fishing industry and Fisherman's Wharf merchants. This committee will work with the Port to develop further measures to improve the existing conditions in the Harbor and Fisherman's Wharf, and help to develop a plan to monitor the effectiveness of the measures as they are implemented.

5. MITIGATION

Comment

“The DEIR and WQS acknowledge that human activity in the project area is a significant potential source of impact on water quality. The DEIR and WQS cite laws and Port rules and regulations which prohibit discharge of contaminants into the Bay. The mere existence of laws and prohibitions cannot be considered effective mitigation measures.

None of the studies previously done in connection with earlier versions of this project takes adequate account of the ways in which fishing boats can contribute additional pollution to receiving waters where they are berthed, or the extent to which any proposed measures can truly be effective in mitigating those impacts.

With the exception of measures to address possible impacts to cultural resources, the Initial Study does not identify for the project a single mitigation measure to be considered in the EIR. This is astonishing considering the magnitude of the proposal and the admitted increase in fishing related activity that the Project entails. It is even more astonishing given the public controversy surrounding the project and the extensive suggestions that have been made to the Port and City Planning Department with regard to methods for mitigating the Project’s impacts, which are part of the record for this Project in the Department of City Planning.

As discussed above, the Initial Study throughout acknowledges that the project may have impacts that are not wholly avoided by project components. Commenters want to make sure that the EIR does not rely, as the earlier Negative Declaration in large part did, on discretionary “enforcement” of regulations as the principal means of mitigating significant impacts. This approach is not supportable in fact or law.

It is clear that this type of unsubstantiated “mitigation” is not sufficient under CEQA. CEQA requires that in order for an agency to rely on mitigation measures as a basis for assuming that project impacts will be avoided, such measures must be fully developed and must be the subject

of a binding commitment. *Citizens for quality Growth v. City of Mount Shasta*, 198 Cal. App. 3d 433, 441 (1988).

In connection with the proposed Seafood Center and berthing project, significant collective efforts were made over several years to examine pollution sources and to propose methods to establish water quality baseline standards, monitoring and post project operating and mitigation requirements. The EIR process should examine all relevant existing documents and data (see partial reference list set forth in Attachment B below), and should insure that the fruits of these efforts are not lost. We have attached hereto as Attachment D a copy of the Water Quality Monitoring Plan which was developed by Commenters in connection with the earlier project proposal by the Port. All of the measures set forth in the Water Quality Monitoring Plan remain important steps to be taken today to ensure that water quality in the area is not further degraded and that there is some chance for improvement. This plan should be the starting point for the development of appropriate mitigation measures to be considered in the EIR. Additional mitigation measures are set forth below.

We believe that it is important to promptly establish a technical committee (including representatives of the Dolphin Club and the Concerned Citizens) to meet and provide comments on water quality issues in the project area and aid in the development of a Water Quality Management Plan (the 'Plan').

We recommend that the Port participate in the State Water Quality Control Board's Mussel Watch Program (and insure continuation of that monitoring activity during the operating life of the project) as part of establishing and monitoring standards for the Plan.

Ensuring that Mitigation measures are fully enforceable. We assume that appropriate water quality baseline standards and water quality monitoring procedures defined by a Water Quality Management Plan will be imposed as a permit condition. In addition, to be fully enforceable, the Water Quality Management Plan should include provision for post project mitigation and corrective action in the event of degraded water quality, together with meaningful enforcement mechanisms to insure compliance with the plan.

In response to the DEIR, The Dolphin Club has presented a proposed Water Quality Management Plan which would serve as a vehicle to achieve the following:

- * Configure a Water Quality Working Group composed of appropriate stakeholders
- * Identify technical expertise needs
- * Identify funding or other sources for technical expertise
- * Identify funding to develop compatible use water quality management strategies
- * Identify funding to implement strategies
- * Provide a permanent forum for managing water quality-compatible use issues.

We request that a Water Quality Management Plan and Water Quality Working Group be included as a requirement of the Final Environmental Impact Report.

For coliform, enterococcus, subsurface water, oil and grease, subsurface water fraction hydrocarbons of petroleum origin, surface microlayer oil and grease, surface microlayer fraction hydrocarbons of petroleum origin.

Likewise, how can the EIR analyze and mitigate the water quality impacts associated with increased seafood landings and handling when the increase in those activities are not quantified? (Margaret Reilly and Roger Beers, written comments)

Response

The above comments are summarized from comments on this EIR and previous comments submitted by the same commenters on the Initial Study and on a previous Negative Declaration for the Seafood Center. Complete copies of the referenced Water Quality Monitoring Plan and Water Quality Management Plan previously submitted to the Department of City Planning, Office of Environmental Review, by the attorneys (Margaret Reilly and Roger Beers) for the Dolphin Club

and Users of Aquatic Park, and Friends of Aquatic Park are part of the public record and project file (#93.574E). As the commenters point out by page number in the EIR, several of the reasonable and feasible mitigation measures that they have suggested have been included as part of the project, or are required by law.

The commenters make the claim that the EIR states that “human activity in the project area is a significant potential source of impact on water quality”. The EIR does not use the term ‘significant’ to describe activities that have been identified as potentially causing water quality impacts. (see Page 111 of the EIR, first sentence). The determination of significance is one of the key decisions in the CEQA process (CEQA Guidelines Sections 15064 and 15065). CEQA defines a “significant effect on the environment” as a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. (Section 15382). CEQA goes on to define ‘substantial’ as “substantial evidence used in these guidelines means enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made is to be determined by examining the entire record. Mere uncorroborated opinion or rumor does not constitute substantial evidence.” (CEQA, Section 15384)

In May of 1996 the Resources Agency of California published proposed revisions to the CEQA Guidelines. In the proposed revisions for determining a significant effect under Public Resources Code 21083, Section 15064, subdivision (c), the guidelines will: “reflect that lead agencies are not required to consider an effect to be adverse based on opinion not supported by facts”; and under subdivision (e) proposed revisions would require “lead agencies to use previously reviewed regulatory standards as a threshold for determining significant effect on the environment”. Previously reviewed regulatory standards already reflect a well-

considered determination of what is appropriate to require for resource protection. This change in the guidelines is intended to relieve lead agencies from redundant analysis.

This EIR has used existing water quality objectives (Basin Plan) and standards (Environmental Protection Agency) as the threshold for determining significance for water quality impacts. The EIR presents relevant data and information describing water quality conditions in the study area for each of the water quality parameters that could potentially be effected by the existing and proposed activities in the Harbor. The EIR includes water quality sampling information from previous years and sampling information from studies completed specifically for this EIR. The EIR does not present the information as exhaustive or comprehensive or conclusive in terms of regulatory compliance. A determination of regulatory compliance is not within the purview of the EIR and was considered beyond the scope of what would be necessary for this EIR. The analysis of the information available in the public record showed water quality conditions in the Harbor and in Aquatic Park within the objectives established by the Basin Plan and (except for copper at two locations and the copper standard for the Bay is currently under review due to high background levels) within the standards established by EPA for water contact recreational water quality.

The quality of water in the project area is generally within the same range as water quality data from nearby parts of San Francisco Bay collected in 1993 as part of the Regional Monitoring Program. (see Table 1, Appendix B, page A.32). After examining the total record of information on water quality, and considering the CEQA guidelines for using established standards for determining significance, the EIR concluded that no significant water quality impacts would result from the proposed project. The EIR also concludes that there is no evidence in the public record to determine that the proposed improvements would result in a substantial

growth in the number of boats in the Harbor over the number that have been in the Harbor on a seasonal basis over the past several years

Further, in response to the above comment: (i) the Port does not anticipate the project to lead to a substantial increase in fish landings; (ii) there is no evidence in the record to show that fish landings would exceed or equal the ten year peak volumes; (iii) water quality, even during the peak periods for fish landing at Fisherman's Wharf (1988-1990) was within Basin Plan Water Quality Objectives in Aquatic Park; (iv) no correlation was found between increased fish landings and water quality in the statistical analysis of coliform data; and (v) improvements to Sheds B&D on Pier 45 for disposing of fish processing waste were completed in 1995 (p. 112-115 of the EIR and the Water Quality Study). All of these statements provide substantial evidence in the record to allow the Port Commission to find that any anticipated increase in fish landings and handling associated with the proposed project will not result in a significant water quality effect on the environment.

CEQA requires mitigation for significant impacts. (CEQA Guidelines, Section 15370). Absent "significant impacts", nonetheless, the proposed project includes measures and actions to improve existing deteriorated and inadequate facilities for the fishing industry (a pumpout, a restroom, improvements to the fuel dock, parking for boat operators, oil/water separator, floating berths, flexible skirt barrier to prevent floatables from leaving the Harbor). These measures and others are described in the EIR, Section V, Mitigation and/or Improvement Measures.

The Port has also established the Fisherman's Wharf Environmental Quality Advisory Committee to provide input on the proposed improvement in the Harbor, and to identify other feasible and prudent measures to improve existing conditions (see p. C&R 229).

Comment

“The DEIR lacks adequate, enforceable mitigation measures. So call "mitigation measures" proposed in the DEIR consist of deferring mitigation to the future, the preparation of future designs or plans, continuing current policies, complying with regulations that the Port must already comply with, and mitigating only when feasible. In other respects, the DEIR simply assumes that mitigation measures will be undertaken in the future without specifying what agency will be responsible for the mitigation. These ‘mitigation measures’ do not meet the standards set by CEQA.

The proposed project incorporates minor physical and operational mitigation measures related to water quality (See Appendix D attached). The measures are insufficient to prevent adverse impacts of project activities, and the mitigation measures set forth in the attached Appendix E should also be considered.

Accordingly, the Commenters have developed a proposed Water Quality Management Plan which contains overall measures necessary to mitigate the project's water quality impacts. See Appendix F. This Water Quality Management Plan should be specifically considered for implementation as part of the Project in the Environmental Impact Report.

It is apparent that existing water quality conditions in the project area are required to be reported to enforcement authorities. It is also apparent that the Port relies entirely on “self-policing” as the only reporting and enforcement mechanism in place. Placing the fox in charge of watching the hen house is not a mitigation measure.

The Wharfinger on duty Monday through Friday oversees leasing and collecting lease revenues. The DEIR provides no substantiating evidence that the Port or any other agency actively enforces water quality related laws, rules and regulations. Without the log or record of enforcement, enforcement of existing laws cannot be evaluated as an effective mitigation measure.

Mitigation Measures incorporated into the project to address water quality concerns (and other mentioned)

Measures Incorporated (S-13; see DEIR Section V (pp. 167-168):

1. Store oil spill containment equipment at gas dock and Wharfingers office per regulatory requirements. (S-5, pp. 166-7).
2. Replace antiquated fuel line with new fuel line to gas dock per regulatory requirements. (Include automatic shut off, leak detection system, remote shutoff switch and pressure sensitive features. (S-5, 16 Figure 6, p. 167).
3. Oil water-separator to pre-treat runoff from fuel dock prior to Bay discharge per regulatory requirements. (Area to be drained and treated is not clearly identified; may also include parking and work dock area at foot of Hyde St. Pier) (S-5, 17 Table 3, p. 167).
4. A pump-out station at the fuel dock. (p. 167)
5. City of S. F. Fire Dept. will periodically hose off breakwater (accumulates debris and animal waste). (p. 168)
6. Port skiff will pick up floating debris 1-2 times daily.
7. Berth design as shown in DEIR to include a flexible "skirt" to eliminate gaps between floats.
8. Dredge activities scheduled to avoid conflict with swimmers in Aquatic Park.
9. Temporary wraps for piles removed from the harbor.
10. No dredging during herring season.
11. Coordination with restaurant and commercial operators to improve housekeeping practices.
12. Weekday supervision of harbor.

Other measures mentioned in DEIR but not listed in Section V. Mitigation Measures incorporated into the project.

- A. Oily waste disposal bins (2): On work dock and at fish Alley (S-5)
- B. Existing laws, rules and regulations. (p.166)
- C. Expand “Best Management Practices Plan” to include the measures contained in DEIR Section IV for enhancing water quality (S-13; pp. 109-123). (Not clear what the BMPP currently contains or what would be added – see p. 165 and pp. 115-116).

Additional mitigation measures which should be included as conditions of project approval.

1. Vessel Management:

- * All vessels in the harbor for more than 12 hours will have leases or otherwise be “logged in” by the Wharfinger.
- * No more than 176 vessels shall be present in the harbor at any time. For purposes of calculating the number of vessels present, all vessels physically present shall be counted daily at an hour when the most number of vessels are likely to be in the Harbor. In addition, all vessels holding a lease or other permission to occupy space in the Harbor shall also be counted, whether or not such vessels are physically present.
- * all vessels in the harbor, whether paying tenants or not, will be required to have dye tablets in their bilge and heads, and absorbent pillows in their bilges, at all times that they are in Harbor.

2. Monitor and correct post-project effects:

- * Observe the effectiveness of new berths to block debris and petroleum products. Augment if needed.
- * Observe effects of placement of boulders, etc., around the fill portion of the Hyde Street Pier on water quality. Correct if design selected creates water quality problems.

- * Observe effects of out fall for runoff system at Hyde Street. Correct if it affects water quality.
 - * Observe fuel dock operations for usage increase or other water quality impacts. Correct if it affects water quality.
 - * Observe new pump-out operations for effects. Correct if it adversely affects water quality.
 - * Observe effects of Project on harbor seal and seal lion population. Correct if it adversely impacts water quality, or if it presents increased safety risks to swimmers in Aquatic Park.
 - * Observe compliance in Harbor with applicable lease terms, laws, rules and regulations which affect water quality. Correct non-compliance.
3. the Water Quality Management Plan (the "Plan"), attached hereto and incorporated herein, must be incorporated into the finally certified EIR. The Port must be obligated to comply with the Plan as a condition of Project Approval.
 4. Water Quality working Group - operating per Plan.
 5. Establish Baseline Standards - established per Plan.
 6. Government Standards - as minimum water quality standards per Plan.
 7. Monitoring Requirements - established per Plan.
 8. Investigative and Remedial Action Required - established per Plan.
 9. Response Plans - as appropriate per Plan.
 10. Recording keeping and reporting requirements - per Plan.
 11. Construction/Dredging safety standards: Port will post 5 days prior notice on the Aquatic Park public beach and on the beach between the Dolphin and South End Clubs (with mailed copies to each club), of any work that could result in:

- * equipment in Aquatic Park
- * debris or other discharges in Harbor or Aquatic Park water
- * Disturbance of Bay silt

No work involving the foregoing will be conducted on any day that either swim club is conducting organized competitive swims (annual swim schedules are available on request).

At all times that work involving the foregoing is occurring in the Fisherman's Wharf area, the Port will install and maintain containment booms between the work and Aquatic Park, in a manner sufficient to prevent all objects and pollutants floating within the top two (2) feet of water from moving into Aquatic Park.

12. Water Quality Management Practices - established per Plan to include:

Inspection and Maintenance: The Port will establish and follow a schedule of inspection for the following:

- Under pier waste and drain pipes
- other aspects of Port owned facilities in the harbor which could impact water quality if in disrepair.

Enforcement Activity: To the extent permitted by law, the Port will document as a public record all water quality related fines and enforcement activities related to Fisherman's Wharf Operations. Port will request that other agencies with enforcement jurisdiction notify the Port of enforcement activities in which such agencies engage.

Signage Program: signage will be maintained throughout Fisherman's Wharf Operations noticing rules and water quality protection procedures, including:

- * Anti-litter

- * Prohibition against feeding birds and marine mammals (including educational material)
- * Hotline numbers for emergencies
- * Location of emergency equipment
- * Notice to close discharge valves on vessels while in harbor
- * Notice to use absorbent pillows in bilges, and to use dye tablets in bilges and heads while in the Harbor
- * Anti-water pollution messages

Hazardous Materials: Fisherman's Wharf Operations shall be routinely required to register with and complete materials data survey report of San Francisco Environmental Health Department on hazardous materials. Copies shall be on file and available for public inspection at the harbor office.

Public Waste: The Port will maintain sufficient trash disposal containers with secured lids and adequate pick up schedules for public access areas and for users of the Fisherman's Wharf Operations (e.g., oily waste, used absorbent bilge pillows).

Response Plans: The Port will develop and maintain written plans to address potential pollution sources associated with Fisherman's Wharf Operations:

- * Emergency Response Plan for fuel dock spills
- * Emergency Response Plan for pump-out facility spills
- * Emergency Response Plan for vessel spills (petroleum, other)
- * Response Plan to minimize sources of coliform and enterococcus
- * Response Plan to minimize sources of surface oil, grease and fraction hydrocarbons of petroleum origin (organic oil slick)

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- * Response Plan to minimize sources of subsurface oil, grease and fraction hydrocarbon of petroleum origin
- * Response Plan to minimize sources of priority pollutants.”

(Margaret Reilly and Roger Beers, written comments)

“The final point is this: Two very important mitigation components did appear in the original 1988 project, and they are now missing. The first is the Water Quality Management Plan, the second was an advisory group, and, in that case, it was a Harbor Advisory Group. The Port had proposed both as mitigation measures for the 1988 project. These concepts have been dropped from the current project. They should be included and required. Today we present Water Quality Management Plan, that's the Dolphin Club presenting a plan. It calls for a water quality working group composed of all the stakeholders; the Port, water quality agencies, pier tenants, water tenants, both the swim clubs. It's designed to find the funding and methods to manage water quality. These two measures, the plan and the working group, are what the water in Fisherman's Wharf desperately needs. This is a serious situation.” (Margaret Reilly, verbal comments)

Response

Under CEQA, mitigation is required for significant impacts and none have been identified in the EIR. The Port is required, under existing regulatory standards and laws, to implement measures to minimize potential impacts to the environment. Examples include: the Oil Spill Contingency Plan (page A.39-40); remediation of hazardous waste that threatens the public health or environment (page A.57); sediment testing and disposal procedures (page A.63) and meeting Basin Plan Water Quality Objectives (pages 42-43).

Other measures to improve existing conditions in the Harbor have been included in the EIR, Section V, under Best Management Practices. The measures described as ‘Included as Part of The Proposed Project’ (page 167-168) have been committed to by the Port for implementation. This list of measures can be added

to by the Port Commission as part of project approval, particularly if the Fisherman's Wharf Environmental Advisory Committee recommends other measures as suggested by the commenters above. Because no significant impacts have been identified for the proposed project, or alternatives, the EIR can be certified by the Planning Commission, without mitigation measures or conditions of approval.

Comment

"Page 116 - last para - It doesn't matter whether the Port has responsibility to do something. DOES IT DO IT. If not currently done, or ineffectively done, this project must include a comprehensive water quality monitoring and improvement plan as a required mitigation measure for the project.

Page 117 - middle para - same comment as above.

Page 118 - top partial para - how will existing spaces be used in future?

- Is Wharfinger really on top of spill and cleanup issues? How many people have been cited, warned whatever?

- How far away (in time to get there, wait in line if necessary, and return) is Gashouse Cove or Pier 39 or use of those facilities?

Page 119 - para 2, last sentence - is this included as mitigation? If not, it should.

"By the same token, the monitoring (effective monitoring) and enforcement must be part of the project because Port has shown it is uneven at best in these areas. The mitigation section needs substantial beefing up to incorporate reasonable mitigation measures suggested by swimmers and rowers and other users of the water and Port."

"And I think the second part of this, because when you have a project that basically is providing environmental mitigation as well as the overall project, and the project itself has large

components of being environmental mitigation. I think the Port and the City have responsibility to pull up a lot more in the environmental mitigation section, particularly on water quality, that they have not included in this report. If the Port has water quality improvement measures that aren't in here, they should be included in here. And if they don't have them, they certainly should be including them.” (Sue C. Hestor, written comments)

Response

In response to comments about oil spill cleanup (EIR pages 116, 117, 118) the Port's Environmental Health and Safety Section coordinates oil spill response notifications and clean-up activities. The City of San Francisco and the Port developed a San Francisco Spill Prevention and Response Plan in August 1993, which provides an incident command system in the event of a major oil spill in the Bay near San Francisco (with the U.S. Coast Guard taking primary responsibility, and the Port, a supporting role.) The Plan has been updated annually through the City's Department of Public Health using State Funding in coordination with the Port. The most recent update was in 1995.

The Port maintains detailed records of all spills that were brought to its attention. Nine incidents have been reported and recorded for Fisherman's Wharf since 1991; two incidents in 1996 (one was a sinking fishing vessel) and both were cleaned up by the Port. Fuel spill kits at the Hyde Street Pier and Pier 46 include absorbent booms, absorbent pads, and other absorbent materials for cleanup.

With reference to the number of berths to be added in the Harbor and how the existing 116 berth spaces would be used in the future (EIR page 118, top of page), the proposed berths are designed to accommodate the larger fishing boats that currently need to side-tie or stern-tie to existing docks. This would leave space in the berths in the Inner Lagoon and Outer Lagoon for boats that are now rafted or tied to other boats in the Harbor to lease space.

The Pier 39 Harbor and Gashouse Cove pumpout facilities referred to on Page 118 (last sentence) are about 1-mile from Fisherman's Wharf in either direction.

Measures to improve existing conditions in the Harbor have been described as part of the Port's Best Management Practices (pages 165-168). The Port has also established a Fisherman's Wharf Environmental Quality Advisory Committee to provide additional input to defining measures that the Port can implement to improve water quality and Harbor supervision (see p. C&R 229).

Comment

"I ask that the Port of San Francisco commit and accept the responsibility for maintaining the highest standards of water quality attainable. I ask that the Port of San Francisco draft a realistic water quality management plan that addresses the needs of all the tenants and users of the waterfront. I ask that the Port of San Francisco take responsibility for the enforcement of such a management plan, including a budget to fund it. I ask that the Port of San Francisco cease its current practice of shifting responsibility for water quality away from itself to a completely ineffective policy of self-policing tenants. When is the last time a tenant came forward to report an environmental accident? The project proponent must take responsibility for the effects of its project. The information contained in the Draft EIR and Water Quality Study at present lacks validity to be considered comprehensive or protective of water quality." (David Zovickian, verbal comments)

Response

The Port has committed to a number of measures to improve water quality in the Hyde Street Harbor as part of the project (see EIR pp 167-168). The Port is required, under existing regulatory standards and laws, to implement measures to minimize impacts to the environment with or without the project (see EIR, p. 166). Examples include: the Oil Spill Contingency Plan (page A.39-40); remediation of hazardous waste that threatens the public health or environment

(page A.57); sediment testing and disposal procedures (page A.63) and meeting Basin Plan Water Quality Objectives (pages 42-43).

Additional measures to improve existing conditions in the Harbor have been included in the EIR, Section V, under Best Management Practices. The measures described as 'Included as Part of The Proposed Project' (page 167-168) have been committed to by the Port for implementation. This list of measures can be added to by the Port Commission as part of project approval, particularly if the Fisherman's Wharf Environmental Advisory Committee recommends other measures as suggested by the commenters above.

Comment

"The other thing I'm concerned about in the environmental report is there doesn't seem to be any idea about how things will be monitored, how consequences occur if there is some kind of a spill, is there a budget for this, who is going to do the monitoring, and what happens when something goes wrong, and how do the swimmers know about what happens, and who's doing the policing. And I think that if these kinds of issues aren't addressed -- I mean, they are not being addressed now. If you swim on any ongoing basis, you are aware that spills occur. So something in the current system isn't working, so how can you add additional development without having a system that works right now." (Laura Burtch, verbal comments)

Response

The Port's Environmental Health and Safety Section coordinates oil spill response notifications and clean-up activities. The City of San Francisco and the Port developed a San Francisco Spill Prevention and Response Plan in August 1993, which provides an incident command system in the event of a major oil spill in the Bay near San Francisco (with the U.S. Coast Guard taking primary responsibility, and the Port, a supporting role. The Plan has been updated annually through the City's Department of Public Health using State Funding in coordination with the Port. The most recent update was in 1995.

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The Port maintains detailed records of all spills that were brought to attention. Nine incidents have been reported and recorded for Fisherman's Wharf since 1991; two incidents in 1996 (one was a sinking fishing vessel) and both were cleaned up by the Port. Fuel spill kits at the Hyde Street Pier and Pier 46 include absorbent booms, absorbent pads, and other absorbent materials for cleanup.

Comment

"[I]mprovements that were described to the Fishing Center do seem like very much needed improvements. So the proposal itself, I think, will be a benefit. The big question will be, obviously, the Port must have a history of being poor property managers on enforcement of the problems as what's routinely described in the Draft EIR is delegated or given to other state agencies, so it's just kind of a frustrating situation for the people who use Port properties." (Esther Y. Marks, verbal comments)

Response

The frustration apparently felt by the Aquatic Club and South End Rowing Club is highly evident by the volume of comments submitted to the City over the past several years about water quality issues in the project area. Many of the same comments that were submitted by the two Clubs in 1988 when the Port proposed a Seafood Center at Fisherman's Wharf have been resubmitted in response to the Initial Study and Draft EIR for the proposed Hyde Street Fishing Harbor/Pier 45 Sheds A & C project, and also the Draft Waterfront Land Use Plan EIR.

The EIR describes the recent improvements made to Sheds B&D, the new Harbormaster Offices on Fish Alley, the 260 gallon tank along Fish Alley for disposal of used crank-case oil, and the start of construction for the fuel tanks along Jefferson Street so that the fuel truck parked on Hyde Street Pier can be removed. These are each part of the existing setting. The EIR also describes the proposed improvements (pumpout facility, improved fuel pump station, floating berths with skirts, a restroom and oil/water separator, increased supervision) and

other measures to improve existing conditions in the Harbor that the Port assumes responsibility for. The EIR does not identify significant environmental impacts caused by the proposed project, or any of the alternatives, however, the EIR does commit the Port to at least twelve measures to improve water quality conditions in the Harbor (see pages 167-168). The Port has also established a Fisherman's Wharf Environmental Quality Advisory Committee that includes representatives from the swimming and rowing clubs and fishing industry and merchants to provide input to the development of additional measures to improve conditions and monitor their effectiveness.

Comment

"In the EIR, Section V, page 168 #12 indicates that ..."The Port will continue the weekday supervision of the harbor and will **consider** adding weekend supervision of boat activities.." This is extremely weak and is an unfortunate but accurate characterization of the Ports real attitude toward leadership/stewardship of its responsibilities. Fact is that WHARFINGER level supervision and oversight of all activities involved in this project must be maintained 24 hours a day, 7 days a week to be effective in maintaining high professional environmental standards. Most fisherman are environmentally conscious but a significant minority are not. It does not take a genius to understand that when adequate supervision is not present, abuses will occur. Currently, bilges are pumped out and other refuse from fishing boats is dumped in the inner lagoon area during "off hours" when the Wharfinger is not around. Creating a project which perpetuates this activity in the main basin and outer lagoon would set up a situation where this much was immediately transported by tidal action into the Aquatic Park Area. Totally unacceptable!!

#8 in this section also states..."The Port would coordinate with swimmers at Aquatic Park regarding scheduling of dredging activities to avoid conflict with scheduled activities..." This displays an amazing lack of understanding about how Aquatic Park is used by swimmers. For the record swimmers are in the water as early as 5 a.m. and as late 12 mid-night with heavy use

in the morning and evening but constant use all day long everyday. Does the Port expect people to stop swimming in Aquatic Park with they dredge? How long? When will the effects of the dredging cease to be a health hazard? Point #10 gives some insight into how damaging this dredging is in that the ..."Port will continue not to conduct dredging activities during herring seasons." This is very revealing. Here, there is a direct admission about the negative effects dredging has on water quality and marine life.

Lastly maintenance dredging will have to be done in the main basin and probably in the outer lagoon areas periodically after the project is finished. Estimates for the need for this activity are also ambiguous. The range is from biannual to once every 7 or 8 years. Whatever the needs turn out to be the same systems are accurate monitoring, engineering and containment controls as well as "break and "stop work" systems need to be in place prior to the commencement of this activity. The Wharfingers need to be involved in monitoring these activities as well." (Daniel Macchiarini, written comments)

Response

In response to the Port's commitment to supervision of the Harbor, the measure on page 168, No. 12 is revised to read: "The Port will continue the weekday supervision of the harbor and will add weekend supervision of boat activities".

Page 122 in the EIR describes the construction impacts that would last an estimated 5-7 days for dredging the Main Basin/Outer Harbor area for the floating berths. The Port has coordinated with the swimming club for previous maintenance dredging to schedule the construction to minimize conflicts with club events, and avoided dredging on Saturdays. The Port has also committed to field inspection during construction for visual observation of water quality, and if necessary, field sampling for turbidity. Measures that could be implemented if turbidity becomes an issue would include: silt screen or use of a suction dredge.

The reason that dredging is not done during herring season is that the Pacific herring enter the Bay primarily for spawning, with adults present in high

abundance only seasonally. Pacific herring begin to immigrate into the Bay in November, with spawning occurring from December to February. Avoiding dredging when herring are spawning makes common sense.

Finally, in response to the question about the need for maintenance dredging, it is difficult to estimate the sedimentation rate in an area because the rate is variable and fluctuates seasonally depending upon sediment load coming in from the Delta and other physical conditions in the Bay. In general, the Fisherman's Wharf area has a lower sedimentation rate than other nearby areas, such as Pier 35. The Fisherman's Wharf Inner Lagoon has only required maintenance dredging once within the last ten years to maintain its depth of 20 feet. Other Port facilities can require dredging as often as every other year. The Port's Environmental Health and Safety Section monitors dredging activities and obtains the permits and approvals from the Army Corps of Engineers, BCDC, Regional Water Quality Control Board and EPA needed prior to any dredging activities in the Bay.

Comment

"The DEIR should also identify the "Best Management Practices", (BMPs) that would be employed before, during and after construction to control and prevent polluted runoff from being discharged into the Bay. The BMPs should be consistent with those identified by the U.S. Environmental Protection Agency's "Guidance Specifying Management Measures for Sources of Non-point Source Pollution in Coastal Waters." (Joseph LaClair, written comments)

Response

The Port currently employs Best Management Practices (BMP's) in the Port facilities and tenant facilities. The practices include, but are not limited to:

- Storage of hazardous materials in enclosed or covered storage area with proper secondary containment or berms. Out side chemical storage areas are contained with berms.

- Most industrial work process areas are enclosed.
- Port vehicles and equipment are serviced regularly inside a permitted repair garage.
- Deliveries are inspected to make sure containers are intact when received.
- The Port's Environmental Staff inspects Port property weekly and picks up discarded waste oil, paint or other hazardous materials and recycles or disposes of the materials. When Class I disposal is required, a licensed hauler is used.
- The Port Environmental Staff cleans up spilled oil along the waterfront using absorbent materials. Spill kits are located near sites where spills are possible.
- Port maintenance regularly sweeps all work areas and does not wash areas with a hose.
- The Port installed a waste oil recovery shed at Fisherman's Wharf to assist fishermen in proper waste oil disposal.

The Port has initiated a group monitoring program that includes both Port-operated and tenant-operated facilities to address the monitoring requirements for both the Port's industrial activities and tenant industrial activities. The Port is working with the RWQCB to determine which tenants should be included. The group monitoring plan includes all of the industrial stormwater generating facilities located on Port property, and includes fish processing facilities.

The Port submits annual reports for Storm Water Discharges associated with industrial activities on Port properties to the RWQCB.

All of these activities will continue whether or not the project is approved and built.

Comment

“The proposed mitigation measures should be strengthened to include:

- ongoing monitoring of water quality;
- establishment of a Hyde Street Harbor/Lagoon Environmental Advisory Committee, members would include swimmers, commercial fishermen, fish handlers, Health Department, Harbormaster, Coast Guard, etc;
- repair all broken drains in the Fish Alley/Pier 45 area.

With such additional mitigation, water quality in the Aquatic area will improve and be protected in the future.(Christopher Martin, written comments)

Response

The Port has established the Fisherman’s Wharf Environmental Quality Advisory Committee to provide input to long-term monitoring of the effectiveness of improvements to existing physical conditions in the Harbor and to management and supervision of enforcement of policies and regulations. (see Section D. Staff Initiated Text Changes and Errata).

Broken drains (or clogged drains) would be identified by field inspection by the Wharfinger and Port inspector and tenants would be notified of the need to meet lease agreements for maintaining drains in working condition. Drains along Fish Alley are not part of the proposed project, however, they are discussed in the EIR under existing conditions. The Port could make the repair of drains in the project area a part of conditions of approval for the proposed project because of cumulative effects, or a part of the Best Management Practices.

Comment

1. “Fish Processing: Any level of increased discharge from fish processing into the Bay will impact swimming and rowing club activities at Aquatic Park. Although the DEIR indicates that “no discharges large enough to cause measurable water quality problems occur to the Bay from those activities”. Strict management practices should be included as a required mitigation measure. The DEIR indicates that government regulatory agencies such as state and local Health Departments inspect for sanitary conditions. To insure that fish processing activities will not further impact Bay water quality, the following mitigation measure is recommended:

PROPOSED MITIGATION MEASURE: The Port shall expand their “Best Management Practices Plan” to include additional inspection of fish processing.

2. Potential Fuel Spills and Leaks: The DEIR indicates that new docking facilities will reduce the potential for fuel spills in the Harbor. While this improvement will benefit recreational users in the Aquatic Park by reducing potential impacts to water quality from fuel spills, additional measures are needed to assure proper use of the new docking facilities.

PROPOSED MITIGATION MEASURE MODIFICATION (#2 on page 167): The Port is proposing, at some future date, installation of new facilities to minimize the potential for fuel leaks from the storage tanks to the fuel dock. These would (include) replacement of the fuel delivery pipeline from the seawall to the fuel dock that would include automatic shut-off features; a leak detection system; remote operated shutoff switch; secondary containment piping over the pipeline; and pressure-sensitive features.

PROPOSED MITIGATION MEASURE MODIFICATION (#3 ON PAGE 167): The Port is proposing an oil-water separator for the fuel dock area. Impermeable surfaces (docks and parking areas) would be designed to collect runoff in a depressed area directing stormwater to the oil-water separator prior to disposal. After oil and water has been separated, all disposal shall either be to City sewer (noncontaminated water) or to the appropriate facility (oil, contaminated water), with no discharge to the Bay.

3. Illegal waste discharge from boats: The DEIR introduces measures that, if implemented, would potentially reduce illegal waste discharge from boats. These proposed procedures include increasing Wharfinger supervision, and oversight of commercial boating and berthing activities at the proposed harbor to 24 hour/day coverage. Implementation of these measures will greatly enhance water quality protection for swimming and rowing activities in Aquatic Park area, and should be required mitigation measure in the final EIR.

PROPOSED MITIGATION MEASURE MODIFICATION (#4 on page 167): The Port is proposing a pump-out station at the fuel dock for disposal of chemical toilet waste on board boats in the harbor. The pump-out would have a capacity of 20 gallons per minute and would be connected to the City's sanitary sewer system. The proposed pump-out would reduce the likelihood of illegal discharges into the Bay. The Wharfinger would be responsible for enforcing the use of the pump-out by boaters in the harbor. Pump-out lines shall be capped during all movement to and from the boats.

4. Litter and Trash generated by Harbor Users and Visitors: The DEIR indicates that implementation of improved work skiff practices and improved coordination between the port and commercial operators and restaurant owners regarding cleaning practices would improve water quality conditions. Increased work skiff activity and improved restaurant/commercial operator housekeeping practices would have a beneficial effect on recreation uses in Aquatic Park and should be a required mitigation measure.

PROPOSED MITIGATION MEASURE: The Port shall expand their "Best Management Practices Plan" to include increased work skiff activity and improved restaurant/commercial operator housekeeping practices. It shall be the responsibility of the Port Wharfinger to verify that the skiff and housekeeping practices take place.

MITIGATION MEASURE MODIFICATION (#11, page 168): The Port will continue to coordinate with restaurant owners and nearby commercial operators to improve housekeeping practices (such as improved grease disposal bins, dumpsters with side covers, increased covered garbage receptacles, sidewalk sweeping, etc.) to reduce litter and trash entering harbor wastes.

All garbage areas shall be confined with drains and stormwater catchment flowing into the City sanitary sewer system. No runoff from garbage area will be allowed to flow into the Bay.

5. Dredging, filling and Other Construction Activities: The DEIR indicates that construction activities for the proposed project would have short-term effects on the Bay and nearby recreational facilities. Specific measures for the preservation of water quality, to be followed by the Port during all phases of construction, should be spelled out in the final EIR. In particular, construction activities effecting Bay water quality must not take place during scheduled swimming club activities.

PROPOSED MITIGATION MEASURE MODIFICATION (#8, page 168): the Port shall coordinate with the San Francisco Recreation and Park Department swimming and rowing clubs at the Aquatic Park, the National Park Service at Aquatic Park and the National Maritime Museum and BCDC regarding scheduling of dredging activities to avoid conflict with scheduled activities.

PROPOSED MITIGATION MEASURE MODIFICATION (#10, page 168): The Port will conduct dredging activities in accordance with State and Federal regulations and will avoid any dredging during herring season." (Joanne Wilson, written comments)

Response

The above measures are improvement, not mitigation measures, since there are no significant impacts. The Port has reviewed and agreed to all of the above changes described by the Recreation and Park Department with the exception of #2, connecting the oil/water separator to the City sewer system which is not feasible due to the existing collection network. The EIR is revised to reflect the above suggested changes.

Comment

"Having spoken recently with Duane Timmons of NOAA, who has most recently been installing the dopple devices in San Francisco Bay, I learned that there are various types of oil reduction/prevention booms which greatly reduce the presence of surface oils. The booms according to Mr. Timmons are relatively easy to install, but must be regularly maintained to be effective. The technology uses pads or skims.

It should be worthwhile for the Port to investigate the use and maintenance of oil reduction booms in order to keep two rather contradictory but necessary uses in harmony." (M. Toby Levine, written comments)

Response

The Port, in consultation with the Fisherman's Wharf Environmental Quality Advisory Committee, will investigate the feasibility of oil reduction / prevention booms. Their experience is that booms don't work very well and can require extensive and frequent maintenance, especially if the system involves pads and skimming. It is difficult to place the booms where they will be most helpful because the booms impede vessel traffic.

Comment

"Instead of mitigation measures the DEIR "suggests" unenforceable "improvement measures" which could be or have been "voluntarily adopted' by the Port (DEIR, page 165). As stated in the DEIR, such measures include 'self policing' with the boat owners or operators responsible for reporting spills..." DEIR, page 116) and otherwise continuing current policies which have not worked. As noted in the DEIR "weekend use of the harbor is unsupervised" (DEIR, page 116) and "Port personnel has (sic) no enforcement authority and cannot write citations." (DEIR, page 116). The DEIR provides no evidence that the Port or any other agency actively enforces water quality related laws, rules and regulations. The DEIR must identify, evaluate and require

effective mitigation measures which must be included as part of the Project and as Conditions of Project approval.” (Laura Taylor, written comments)

Response

The measures required by law, described on page 166 in the EIR, are mandatory whether or not the project goes ahead. The Regional Water Quality Control Board, San Francisco Bay Region (Regional Board), is one of nine state agencies that administer the Porter-Cologne Act (State Water Code Sections 13000 et. Seq.) The nine Regional Boards each report to an actual Board whose members are appointed by the Governor. The federal government has delegated a significant portion of its enforcement and implementation responsibilities under the federal Clean Water Act to the State board, which in turn delegated these responsibilities to each of the Regional Boards. Thus, the Regional Board enforces both state and federal laws.

The Regional Board has the authority (at the staff level) to levee civil penalties for illegal discharges of waste to waters of the State under the Porter-Cologne Act. Waters of the State include surface waters such as San Francisco Bay. They can assess penalties of up to \$5,000 under State law and up to \$10,000 under federal law, per day per violation, if they choose. They can impose these penalties administratively, without a court order, but they take all penalty cases to their Board for approval.

Comment

“The EIR is unclear or ambiguous concerning what kind of monitoring system will be in place during this project. The only reference that is made to any kind of monitoring system is on Page 170 in which the "Maher" ordinance and Cal. Title 22 Regs. are cited for the purposes of disposing of dredge spoils. Direct impacts from dredge spoils on water quality are never really addressed. This needs to be spelled out in detail and "break" or "stop work" system needs to be

in place during construction operations so that if water/air quality begins to degrade, construction activity can be altered or stopped.” (Daniel Macchiarini, written comments)

Response

Commenter is confusing dredging and Maher/Title 22 issues. The Maher Ordinance contains standards for investigating and remediating contaminated soil within the historic tidelands of the City and is not relevant to dredging of sediments in the Bay. Title 22 contains California’s laws regulating hazardous material and hazardous waste, and it would pertain only if contamination levels in dredged material approach or exceed hazardous waste levels. Overall less than 1% of all dredged materials in San Francisco Bay exceeds Title 22 levels for a given constituent. Decisions about dredging disposal are based primarily on the results of “effects-based” biological (bioassay) test, not numerical standards as are contained in Maher/Title 22. Quality of sediment is determined **before** the project gets under way, not during. This is usually true of soils work too. Laboratory tests performed before the project begins are much more accurate and comprehensive than any of the currently available field tests for soil or water quality.

It is not possible perform any meaningful water quality monitoring during a dredging job due to the type of lab work that is involved, but the sediment quality is always well-characterized before any dredging begins to assure that no negative effects will result from the dredging. One could use a very simple test for turbidity or perform visual inspections. However, turbidity effects from dredging are very short-term and localized. It is difficult to judge the effects of turbidity outside of the immediate dredging area because the Bay is so turbid generally.

The impacts from dredging are addressed in the EIR on pages 121-122, under Construction Impacts for Water Quality, and on page 162 under Disposal of Dredged Sediments for Hazards.

The Fisherman's Wharf Environmental Quality Advisory Committee will be working with the Port staff to develop a monitoring program for the harbor.

Comment

"The Bay Plan Policies on Water Quality, in part, state that:

"Bay water pollution should be avoided. Water quality in all parts of the Bay should be maintained at a level that will support and promote the beneficial use of the Bay as identified in the Regional Water Quality Control Board's Basin Plan. The policies, recommendations, decisions, advice and authority of the State Water Resources Control Board and the Regional Water Quality Control Board should be the basis for carrying out the Commission's water quality responsibilities. Polluted runoff from projects should be controlled by the use of Best Management Practices in order to protect the water quality and beneficial uses of the Bay, especially where a water dispersion is poor and near shell fish beds and other significant biotic resources. Approval of projects involving shoreline areas polluted with hazardous substances should be conditioned so that they will not cause harm to the public or the beneficial uses of the Bay."

(Joseph LaClair, written comments)

Response

The Port currently employs Best Management Practices (BMP's) in the Port facilities and tenant facilities. The practices include, but are not limited to:

- Storage of hazardous materials in enclosed or covered storage area with proper secondary containment or berms. Out side chemical storage areas are contained with berms.
- Most industrial work process areas are enclosed.

- Port vehicles and equipment are serviced regularly inside a permitted repair garage.
- Deliveries are inspected to make sure containers are intact when received.
- The Port's Environmental Staff inspects Port property weekly and picks up discarded waste oil, paint or other hazardous materials and recycles or disposes of the materials. When Class I disposal is required, a licensed hauler is used.
- The Port Environmental Staff cleans up spilled oil along the waterfront using absorbent materials. Spill kits are located near sites where spills are possible.
- Port maintenance regularly sweeps all work areas and does not wash areas with a hose.
- The Port installed a waste oil recovery shed at Fisherman's Wharf to assist fishermen in proper waste oil disposal.

The Port has initiated a group monitoring program that includes both Port-operated and tenant-operated facilities to address the monitoring requirements for both the Port's industrial activities and tenant industrial activities. The Port is working with the RWQCB to determine which tenants should be included. The group monitoring plan includes all of the industrial stormwater generating facilities located on Port property, and includes fish processing facilities.

The Port submits annual reports for Storm Water Discharges associated with industrial activities on Port properties to the RWQCB.

All of these activities will continue whether or not the proposed project is approved and built.

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6. Alternatives
a. Another Location

6. ALTERNATIVES

a. Another Location

Comment

“As I drive through Jefferson Street to get to the club at 6:00 o'clock in the morning, it's choked with big fishing trucks that have fish on them. But they are not from this area; they are from Portland, Oregon, they are from all over the place. You could have a fish processing plant in Modesto, you don't need it down there.” (John Rohosky, verbal comments)

“We must stop any expansion of facilities for commercial fishermen next to Aquatic Park and look to alternate areas in our bay for development of commercial facilities for fishermen, if indeed, there is a need for expansion. If there is a need for expansion, they can go some place else. There are empty piers further down the Embarcadero, and that area is seeing new development, with the new Giants stadium going in.” (W. Sijssling, written comments)

“Please turn this around for the people. More piers and water access ways are opening up around the Embarcadero - can't you please find another place for a marina? There must be other options than Aquatic Park. Please make amends.” (Leslie Anglim, written comments)

“It seems that the DEIR is actually describing two separate projects, and perhaps they should be considered separately: 1) whether to add 60 new boat berths, and 2) what to do with pier 45. There is room for boat berths at other less-congested piers; alternatives to Hyde St. should be sought.” (J. Irving, written comments)

“The DEIR fails to identify a "range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basis objectives of the project but would avoid or substantially lessen any of the significant effects of the project" (§15126(d), CEQA Guidelines). The only alternative presented in the DEIR to the Hyde Street Fishing Harbor portion of the Project is a larger project. No alternative sites are discussed in any manner. No

Summary of Comments and Responses

C. Comment and Responses

6. Alternatives

a. Another Location

alternatives other than the preferred alternative which might meet the basic objectives of the project but which cause less environmental impact are discussed in any manner. The Initial Study indicates that an array of alternatives will be formulated and analyzed but the DEIR fails to follow through on its commitment.” (David Behar, written comments)

“The DEIR fails to identify a "range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project (Section 15126(d), CEQA Guidelines). The only alternative presented in the DEIR to the Hyde Street Fishing Harbor portion of the Project is a larger project.” (Incidentally, no alternative to the Pier 45 Sheds A and C are identified -- mere alternative uses of the space are not the "range' of alternatives that CEQA intended.) No alternative sites are discussed in any manner. No alternatives which might meet the basic objectives of the project (other than the preferred alternative) but cause less environmental impact are discussed in any manner. The Initial Study indicated that any array of alternatives would be formulated and analyzed, but the DEIR fails to follow through on this commitment.” (Linda M. Sheehan, written comments)

“There is at least 10 linear miles of wharfside property that could be developed where they could have fishing boats that could have all of this processing. Why, I ask, does it have to be in this one little corner?” (John Rohosky, verbal comments)

“Finally, the analysis of alternatives to the proposed project is inadequate and does not meet the minimum requirements of CEQA. No alternative sites are identified despite CEQA requirements and the promise that such will be done. Alternatives with a lesser environmental impact are not considered. In fact, the EIR threatens to build reliance on the DEIR, even though environmental impacts of such project are not the focus of the DEIR.” (Aaron Peskin, verbal comments)

“The Initial Study promised that the DEIR would consider at least one alternative site for the project. Certainly, there are a variety of locations with the Port's jurisdiction which could be considered to accommodate the additional berths for commercial fishing vessels. Yet contrary to

the promise in the Initial Study, the DEIR does not give any consideration to any alternative site.”
(Margaret Reilly and Roger Beers, written comments)

Response

In response to the first comment, much of the seafood product delivered on Jefferson Street does not go to the fish processors on Pier 45, but are deliveries that are picked up by restaurants, retailers and wholesalers from outside the area (truck to truck activities as shown on page 13, Figure 4 of the EIR).

Nevertheless, while a large amount of seafood product (an estimated 50%) is delivered to the fish processors by truck, about 50% is still delivered by boat which requires processors to have water access.

In response to the question about ‘why this location’, Fisherman’s Wharf has been the traditional home of the fishing industry for almost 100 years. Fishing boats were using the Harbor long (about 38 years) before the swimming and rowing clubs selected to move their clubhouses to Aquatic Park. (see pages 4-9 in the EIR) San Francisco is recognized as one of the major West Coast Ports for the landing and distribution of seafood products with close proximity to major seafood markets. Located at the entrance to San Francisco Bay, fishermen save time and fuel costs in reaching fishing grounds, and can reach and enter the harbor in a timely manner when weather conditions are threatening. There are already 116 berths for fishing boats and roughly 150,000 square feet of fish processing space on Pier 45 and in Fish Alley, along with a fuel dock and ice machine also located in the Harbor that serves the fishing industry.

In accordance with CEQA Guidelines (Section 15126(d)) the EIR must include a “range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would

avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.”

In terms of alternative locations, CEQA guidelines state “The key question and first step in analysis is whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location. Only locations that would avoid or substantially lessen any of the significant effects of the project need be considered for inclusion in the EIR”.(Section 15126 (d)(5)(B)1.)

No significant impacts from the proposed project are identified in the EIR, thus, under CEQA, no alternative locations need to be considered in the EIR. The project would improve existing conditions in the Harbor and would add increased management and supervision of commercial fishing activities. Locating berths for fishing boats several miles away (at China Basin) from existing fish processing facilities, and major restaurants and the entrance to the Bay would not be prudent or reasonable.

In response to comments about the Initial Study: the proposed project at the time of the Initial Study was the 88-berth Harbor, a two-story harbormaster building on Hyde Street Pier, and a new fueling facility and expanded parking. The Port reconsidered the size of the Harbor in response to comments on the Initial Study and information assembled for defining the objectives of the project. The smaller 60-boat harbor was selected by the Port as the preferred project. The EIR includes the original design for the harbor as an Alternative in the EIR so that impacts can be compared with the smaller harbor design. The comment’s suggestion that the Port analyze an alternative project that would improve the existing harbor facilities without the construction of new berths would not be environmentally superior to the proposed project since the proposed project would not have any significant environmental impacts. In addition, such alternative fails to meet the

project objectives because it would not provide modern, sanitary berthing facilities suitable for a center for the commercial fishing industry. The current berthing facilities lack suitable water, and electrical power and are accessible only by ladders.

In response to the comments about the relationship of the proposed harbor expansion and Pier 45 Sheds A&C; the EIR includes both projects because they are in the project area and are proposed by the same applicant and are directly related to the commercial fishing industry. Even though the Port is less certain about what might ultimately be developed in Sheds A&C (because of funding availability and reaching consensus with the Pier 45 Advisory Group), the City (OER) recommended including the Pier 45 Sheds A&C design concepts in the EIR to avoid a 'piecemeal' analysis with two separate environmental documents.

Comment

"The Initial Study prepared by the City Planning Department reflects an understanding of the kind of alternatives that are required to be analyzed in this DEIR in order to comply with CEQA. It committed a minimum to the following:

"At a minimum, alternatives analyzed will include the following:

- "- The No Project Alternative.
- An alternative designed with fewer berths and less parking and fewer new uses in the sheds on Pier 45.
- Alternative Sites..." (DEIR, page A-25)

Alternative site(s). An evaluation of whether alternative sites for certain portions of the project are feasible will be provided. Such sites may include building new facilities at an alternative location. The extent to which utilization of other sites

could mitigate any significant environmental impacts will be discussed." DEIR, Appendix A. at A-25." (Margaret Reilly and Roger Beers, written comments)

"The Initial Study for the project recognizes the types of alternatives required to be analyzed in the DEIR in compliance with CEQA and states that "at a minimum" the following alternatives would be analyzed in the DEIR:

- The No Project Alternative.
- An alternative designed with fewer berths and less parking and fewer new uses and the sheds on Pier 45.
- Alternative Sites..." (DEIR, page A-25). "(Laura Taylor, written comments)

Response

CEQA Guidelines Section 15126(d) requires that EIR to describe a range of reasonable alternatives to the Project, or to the location of the project which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project. Subsection 15126(d) (1) specifically states that the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives or would be more costly. In addition to the proposed project, the EIR analyzes the "no project" alternative, as well as two more intensive project alternatives. The EIR does not identify any significant impacts resulting from either the proposed project or the more intensive alternatives. As a result, an analysis of alternative sites or projects to the propose project as suggested by the comment would not meet the purposes of CEQA and is not required. This is because such analysis would not provide the decision makers with meaningful alternatives lessening the significant effects of the project. It would merely offer the decision makers an

Summary of Comments and Responses

C. Comment and Responses

6. Alternatives

a. Another Location

alternative that would not meet the project objectives, and would not offer any environmental superiority over the proposed project. CEQA does not demand an analysis of alternatives that would improve the existing environment where the project does not create any significant impacts. Nevertheless, review of the “no project” alternative indicates that the proposed project would clearly have a beneficial impact upon the existing environment. The comment’s suggestion that the Port analyze an alternative project that would improve the existing harbor facilities without the construction of new berths would not be environmentally superior to the proposed project since the proposed project would not have any significant environmental impacts.

b. No Project

Comment

“The “no project” alternative is not an alternative of “lesser development” since it does not involve any proposed development at all. The “no project” alternative standing alone – without any intermediate choices – cannot present “information sufficient to permit a reasonable choice of alternatives.

Yet, contrary to the promise in the Initial Study, the DEIR does [not?] give any consideration to any alternative site.

This is clearly a violation of CEQA, and itself requires that the DEIR be revised and recirculated.” (Margaret Reilly and Roger Beers, written comments)

Response

CEQA does not demand an analysis of alternatives that would improve the existing environment where the project does not create any significant impacts. Nevertheless, review of the “no project” alternative indicates that the proposed project would clearly have a beneficial impact upon the existing environment

In response to the comment about the Initial Study: the proposed project at the time of the Initial Study was the 88-berth Harbor, a two-story harbormaster building on Hyde Street Pier, and a new fueling facility and expanded parking. The Port reconsidered the size of the Harbor in response to comments on the Initial Study and information assembled for defining the objectives of the project. The smaller 60-boat harbor was selected by the Port as the preferred project for the EIR. The EIR includes the original design for the harbor as an Alternative in the EIR so that impacts can be compared with the smaller harbor design.

Recirculation of the EIR is not required (CEQA Section 15088.5) unless “a feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project’s proponents decline to adopt it.” (a)(3.) The Final EIR includes expanded clarification for the no project alternative and revised designs for Sheds A&C and the floating harbor, in response to comments from the fishing industry representatives and Pier 45 Advisory Group. The EIR includes information for a larger project (originally proposed) and the downsized harbor (the preferred project) and an alternative harbor layout that provides more space in the Main Basin for boat access to Pier 45. No new significant impacts have been identified for any of the alternatives added or revised since the Draft EIR was circulated for public review.

Comment

“At the hearing I indicated that the No Project Alternative needs substantial modification to show what rotten conditions will continue if project does not go forward and Port continues to operate in same manner.” (Sue C. Hestor, written comments)

Response

The No Project Alternative discussion has been augmented with information from the setting and project objectives sections that discuss needed improvements and existing conditions in the Harbor.(see page 177)

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6. Alternatives
c. Fewer Improvements

c. Fewer Improvements

Comment

“The DEIR’s failure to consider any alternative with lesser environmental impacts violates CEQA.

The EIR’s failure to consider a lower intensity of development violates CEQA.” (Margaret Reilly and Roger Beers, written comments)

“To what extent is such a need driving the Project for new, expanded berthing based on undemonstrated need? Why doesn't the DEIR include consideration of an alternative that would improve existing harbor service facilities (pump out facilities, restrooms, fuel spill containment equipment, etc.) without expanding the harbor?

Except for the "no project alternative" the DEIR contains none of these alternatives. No alternative sites for the proposed Project are analyzed in site of approximately 10 miles of waterfront. No alternatives are analyzed with fewer berths or less parking or fewer new uses in the sheds. no alternatives are analyzed that would lessen or improve water quality impacts. As pointed out in Part III.A(3) above, why doesn't the DEIR analyze an alternative project that would improve the existing harbor facilities for the commercial fishing industry without the construction of new berths? (Laura Taylor, written comments)

“The DEIR affords no opportunity to see how the Port's needs and the environmental harms posed by the project could be balanced in some compromise alternative that would allow some new construction, but not the entire amount of new construction contemplated in the proposed project.

No alternative analyzes either fewer berths or less parking or fewer new uses in the sheds. Nor does any alternative analyze any alternative site for the project. Instead the DEIR analyzes alternatives the represent either *more development* than the proposed project or simply different

configurations of the interior uses of the sheds. All of these alternatives have impacts that are greater than the proposed project. Yet, not a single alternative in the DEIR takes a look at scaling down the proposed new construction to attempt to mitigate environmental impacts.” (Margaret Reilly and Roger Beers, written comments)

Response

A no project alternative which would not expand the harbor was considered in the DEIR, but without the pump out and restrooms being built. The comment’s suggestion that the Port analyze an alternative project that would improve the existing harbor facilities without the construction of new berths would not be environmentally superior to the proposed project since the proposed project would not have any significant environmental impacts. In addition, such alternative fails to meet the project objectives because it would not provide modern, sanitary berthing facilities suitable for a center for the commercial fishing industry. The current berthing facilities lack suitable water and , electrical power and are accessible only by ladders.

CEQA Guidelines Section 15126(d) requires that EIR to describe a range of reasonable alternatives to the Project, or to the location of the project which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project. Subsection 15126(d) (1) specifically states that the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives or would be more costly. In addition to the proposed project, the EIR analyzes the “no project” alternative, as well as two more intensive project alternatives. The EIR does not identify any significant impacts resulting from either the proposed project or the more intensive alternatives. As a result, an analysis of alternative

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6. Alternatives

c. Fewer Improvements

sites or projects to the propose project as suggested by the comment would not meet the purposes of CEQA and is not required. This is because such analysis would not provide the decision makers with meaningful alternatives lessening the significant effects of the project. It would merely offer the decision makers an alternative that would not meet the project objectives.

d. Maximum Expansion

Comment

“Instead, the DEIR analyzes “The Maximum Expansion alternative” (DEIR, pages 177-181) to accommodate at least 60 more boats than the proposed project – an alternative that would have an even greater environmental impact than the proposed Project. Even the Port admits that this alternative “is not now considered reasonable.” (DEIR, page 177). Yet, it appears that this alternative is included in an attempt to cover any future expansion of the harbor under this EIR even though the environmental impacts of such a larger project are in no way adequately considered in this DEIR. ” (Laura Taylor, written comments)

Response

The focus of analysis for the Hyde Street Fishing Harbor, Maximum Expansion Alternative was on the differences in the physical changes between this alternative and the proposed 60-boat Harbor. Thus, Bay Fill and Bay Cover information comparing the two harbor design is included to meet BCDC review requirements; traffic and parking differences were analyzed and no substantial differences were identified; water quality conditions and impacts were assessed and it was concluded that water quality would be expected to remain similar to existing conditions and potential impacts would not differ from those discussed for the proposed project.

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e. Pier 45

e. Pier 45

Comment

“As to the Pier 45 Sheds A & C, instead of analyzing a project with fewer uses the DEIR simply discusses different configurations of internal uses without addressing any of the environmental concerns of this aspect of the Project. CEQA requires that a DEIR consider project alternatives with a lesser environmental impact and that it consider alternative sites.” (Laura Taylor, written comments)

Response

The No Project Alternative, addressed in the EIR, includes fewer uses than the proposed project and alternatives. No significant impacts are identified for any of the use scenarios analyzed in the EIR, therefore, CEQA does not require an alternative with fewer improvements to the sheds, or an alternative that would be located at another site. Additionally, an alternative location would not meet the objective to make interior improvements to the sheds and Pier 45 uses.

Comment

“We urge you to amend the Draft EIR and the proposed alternatives to reflect the current and future operations of the NMMA at Pier 45.” (Kathy Lohan, written comments)

Response

The EIR text has been revised (pages 181, 185) to add the 10,000 sq. ft. for the Pampanito on the east side of Shed A.

Comment

“I must take issue with the proposed alternatives for Pier 45 Shed A and C which are referred to throughout the EIR and are described in detail in Section C of the Project Description and

Section VII, Alternatives to the Proposed Project. Three alternatives (Alternatives (A-C) are described which seem to be based upon the previously mentioned Sedway feasibility study completed for the Port in 1994 using grant funding from National Oceanic and Atmospheric Administration (hereafter "Sedway Study"). The stated objective of the Project Sponsor is "to provide complementary uses to the fishing industry," yet none of these alternatives consider commercial fishing industry uses such as fish handling and gear storage in Sheds A and C, which certainly must be considered as the most complementary use to the fishing industry.

In 1988 the Port Commission adopted a development plan for the revitalization of the commercial fishing industry at Fisherman's Wharf (Resolution 8-43), under which "Shed C will be renovated and seismically braced to provide 29,200 square feet of fish handling space, 14,700 square feet of fisherman's gear storage, and a 14,000 square feet footprint of the fisheries Institute. (This plan was also entered into the Congressional Record by Congresswoman Nancy Pelosi.) Since this Port Resolution has not been rescinded nor modified, and since this development plan has been presented to State and Federal agencies for funding and support, it must still be construed to be the Project Sponsor's preferred alternative for Sheds A and C. The final EIR should study the above mentioned as an additional development alternative for Shed C."(Christopher Martin, written comments)

Response

The Port has submitted an alternative for Sheds A&C, (see pages 232-236 of C&R) that was suggested by the Pier 45 Advisory Group. This alternative includes 32,000 sq. ft. of fish processing space and space for fishing gear storage, and parking for employees of fish processing businesses on Pier 45.

7. COMMENTS ON INITIAL STUDY

Comment

“However, the Initial Study now dismisses this added noise because a study prepared on the earlier proposal concluded that it “could barely be perceived.” (p. 13). No conclusion was drawn about project noise impacts on the nearest and potentially most sensitive receptors of this noise – those people swimming in nearby Aquatic Park. In addition, the Initial Study does admit that construction activities would generate noticeable increases in noise levels within Aquatic Park, (p. 18). For each of these reasons, the Project clearly has the potential to produce significant noise impacts which should be review in the EIR.” (Margaret Reilly and Roger Beers, written comments)

Response

The Fisherman’s Wharf Seafood Center Noise Report prepared by Bendix Environmental Research, August 4, 1996 was the basis for focusing noise out of the EIR. It analyzed potential noise affects from the larger harbor and operation of modernized facilities as well as from construction noise. The findings were that there would be no substantial increase in noise from boat and vehicle traffic beyond the existing situation. Construction noise would occur far from most sensitive receptors and for a brief period of time. The noise impacts on swimmers were not considered in that they enter and pass through Aquatic park water intermittently (which often does not coincide with the normal time for construction activities to be underway) and have a very brief period of “residency” in proximity to the construction activities.

Comment

“These Scoping comments are being re-submitted as part of our comments on the DEIR because the Scoping Comments were largely ignored in the DEIR, and much of the Scoping Comments’

information and analysis remain applicable to the project in its current configuration and are not repeated in the above comments on the DEIR.” (Roger Beers, written comments)

Response

The EIR did not ignore the commenters response to the Initial Study. The comments were used by the EIR consultants to scope the study effort and water quality sampling plan. The technical reports for water quality, hazards, and traffic each include detailed information responsive to the detailed comments provided to guide the EIR review.

Comment

“Many of the assumptions made in the Initial Study will now have to be reexamined, if the Project is now being redefined.” (Margaret Reilly and Roger Beers, written comments)

Response

The proposed project described in the EIR is the project analyzed. The Initial Study was developed in 1988, the EIR presents the updated project description, and the analysis of potential environmental impacts is based on the most recent project description. The Initial Study is included as an appendix in the EIR as background information only, and the results of the environmental review in the EIR are intended to replace any results of the Initial Study.

The project as proposed is a smaller and less intense project than what was examined in the Initial Study. Any effects on the environment would also be scaled down.

Comment

“We must also point out that according to CEQA Guidelines (§15153 (a)), a single EIR may be employed to describe more than one project only if such project are essentially the same in terms

of their environmental impacts. Regardless of the vagueness and inadequacy of the Project description(s) in the subject DEIR, the two projects that it attempts to analyze (the Harbor Expansion and Pier 45 Sheds A & C) are so different in terms of their project specific environmental impacts as to be impossible to analyze in the same document. This provision of CEQA does not, however, preclude the requirement to consider the cumulative impacts of the Project in the context of other past, currently proposed and anticipated projects in the area.” (Laura Taylor, written comments)

Response

The EIR includes both projects because they are in the same project area and are proposed by the same applicant and are directly related to the commercial fishing industry. Even though the Port is less certain about what might ultimately be developed in Sheds A&C (because of funding availability and reaching consensus with the Pier 45 Advisory Group), the City (OER) recommended including the Pier 45 Sheds A&C design concepts in the EIR to avoid a ‘piecemeal’ analysis with two separate environmental documents

Comment

“Our ability to comment, and presumably that of others who might have wanted to comment, is limited by short notice period given at a time of year when holiday plans and travel schedules leave little available time to devote to “surprises.” This has occurred despite the fact that the Initial Study was issued on July 8, 1994 for the Project, and comments on the Initial Study were apparently solicited from *public agencies* at that time but not from the many members of the public who have previously expressed an interest in the Project. We believe that the comment period should be extended for an additional thirty days, because of the delay that has occurred in the sending of the notice to members of the public and the short period allowed for public comment during the holiday season.” (Margaret Reilly and Roger Beers, written comments)

Response

The original mailing of the Initial Study was, in fact, in July of 1994. The mailing list included the commentors. In response to their request for another opportunity for comments to be submitted, the Office of Environmental Review did issue a second notice of preparation and request for comments on December 1, 1994.

The second response period closed on December 31, 1994.

Comment

“On November 29, 1994, the City planning Department issued a Notice that an Environmental Impact Report is Determined to be Required regarding the Port's proposed Waterfront Plan, and soliciting comments thereon. However, there is no mention in that document of the fact that the City was contemporaneously issuing a similar notice for public comments on the instant Project. Nor does the Notice that was issued for the Project contain any reference to the proposed Waterfront Plan or the fact that an EIR is being done. Clearly, there is no reason for these two ships to be passing in the night.” (Margaret Reilly and Roger Beers, written comments)

Response

The Hyde Street Fishing Harbor/Pier 45 Sheds A and C DEIR analyzes a specific project. The Waterfront Land Use Plan DEIR is a programmatic document that is general in nature, allowing consideration of broad policy alternatives and program wide mitigation measures at an early time when greater flexibility exists to deal with basic issues and cumulative effects. Thus, they are separate projects and there would be no reason for either notice to mention the other project.

Comment

“Similarly, the notice that went out soliciting public comment on the project needs to be resubmitted with a revised Initial Study that makes clear that the scope of the project now includes recreational boating. Overall, some certain, permanent definition of the project in this

regard should be developed for inclusion in a new solicitation to the public for comments.”

(Margaret Reilly and Roger Beers, written comments)

Response

The EIR addresses “activities associated with boating, whether commercial or recreational, that can potentially affect water quality” (page 115 of the EIR). There is no need to revise the Initial study or EIR.

Comment

“The Initial Study incorrectly finds that the project could not disrupt or adversely affect a property of historic or cultural significance or conflict with the preservation of historic buildings (DEIR, page A-22). As a result the DEIR contains no discussion of the Project's potential impacts on numerous existing historic resources to be moved, altered, demolished or otherwise affected by the Project.” (Laura Taylor, written comments)

Response

The EIR includes information on historic property and archaeological resources on page 171, under Mitigation Measures for construction activities. Information about the SF Maritime Historical Park has been added to the EIR (page 40) to address adjacent land use of historic significance. An architectural evaluation of the building at 490 Jefferson Street (Bell Smoked Fish Building) was conducted for the EIR by a certified architectural historian (Ward Hill) and it was concluded that the building was not eligible for the national Register of Historic Places due to a loss of integrity. (see project file 94.574E.)

Comment

“The Initial Study provides a vague, incomplete and, in some cases, incorrect description of the project. By its terms, the Initial study proposes an ever shifting project description, to be defined through the EIR process. (Margaret Reilly and Roger Beers, written comments)

“In other respects the environmental review process for the project is flawed. Section and paragraph references below refer to portions of the Initial Study.

- A. Section IV, Par B1b - Land Use. The proposed project could have a substantial impact on the existing character of the vicinity.
- B. Section IV, Par B3a - Population Growth. The project could induce substantial permitted increases in vessel “live aboard” populations.
- C. Section IV, Par B4c and d - Transit Demand and Parking. Foreseeable changes in parking and traffic circulation on Jefferson Street and the foot of Van Ness will negatively impact elderly who are entitled to protections of ADA.
- D. Section IV, Par B9b - Topography. The addition of .54 acres of new Bay fill, and the new fill represented by the proposed Hyde Street Harbor berths, constitutes a substantial change in topography and in a unique physical feature of the site.
- E. Section IV, Par 10a and c - Water. The Eir should examine the extent to which the Bay fill associated with this project may create or change siltation patterns and may affect water quality.
- F. Section IV, par 11B - Potential Use of Natural Resource. The City Recreation and parks Department’s entire Bay swimming program depends on water quality in Aquatic park suitable for human contact. If the project degrades water quality, uses of the water resources in Aquatic Park for swimming purposes would be lost. The Eir must address this potential loss of use.

- G. Section IV, Par 13 - Cultural. In existence for well over 100 years, the two swimming and boating clubs and the programs they carry out are historic and cultural resources of significance to the community. Significantly degraded water quality in Aquatic Park would likely result in economic ruin of both clubs and loss of the cultural and historic resource that both provide. This potential loss must be address in the EIR.
- H. Section IV Par D - Mitigation Measures proposed. The scope of mitigation measures ultimately imposed must take into consideration the future water quality problems that based on historic data and practices, could foreseeable arise from operating and maintenance aspect of the project including activities of tenants and visitor on Pier 45 and on vessels, docks and berthing areas.”(Margaret Reilly and Roger Beers, written comments)

Response

The above comments are on the Initial Study, not on the EIR. The Initial Study reflected the project as it was known at the time. As is frequently the case, during the preparation of the EIR the project was further defined, and in this case, “downsized”. All aspects of the project as it is now defined were analyzed in the EIR.

Comment

“In addition, the Initial Study notes that expanded berthing and parking facilities will predictably increase the volume of sea food landing and handling, but fails to quantify the increase, apparently due to the Port's failure to supply any baseline data on the current volume of seafood handling in the project area. We understand that the only data currently available relates to quantity of fish "landed", and that no data is kept on the quantify of seafood processed or handled.

The Initial Study implies that the existing commercial fishing fleet in Fisherman's Wharf is overcrowded. With only 99 existing berths, it would appear that currently, 21 vessels are "doubled stacked" and 50 vessels are rafted up without assigned berths. One might assume from

this that the 71 "homeless" vessels would rush to occupy the new 86 berths and 1320 linear feet of new dock space. ”

“The Initial Study is confusing in its treatment of fish handling and processing activities in the area in relationship to this Project. On the one hand, the Project Description includes Sheds A *through* D on Pier 45, where fish handling and processing have been done in the past and are now proposed to be expanded. (A.4). Yet, the Project Description contains no mention of these activities in relation to this Project. Elsewhere, the Initial Study refers to the "potential increase in truck traffic *related to the fish handling business could be an outcome of the project*" (A. 17), and also promises that the EIR will consider the topic of odors from "fish processing activities on Pier 45. (A. 19). When the earlier project was proposed, the Negative Declaration acknowledge that it would result in increases in "fish handling" which will result in a corresponding increase in the amount of fish wastes generated. The fact that the Port chose to bite off a piece of that project to be treated for emergency seismic repairs - on the basis of a negative declaration - should not be a basis for now escaping review of the impacts of the fish handling and processing businesses in the area where this project is proposed, and how the remainder of the project relates to those activities. (Margaret Reilly and Roger Beers, written comments)

“It is unclear what “Project” is being considered in the DEIR for Sheds A & C. Fish processing, although it would appear to meet the state project objective, is never mentioned in the Initial Study or in the DEIR’s rambling discussion of the “Project”. CEQA clearly requires the project to be reasonably defined before it can be adequately considered in the DEIR (CEQA Guidelines, §15124).

“The Initial Study variously describes the proposed project for the Sheds A & C as a “Fisheries Institute...which *may**(**emphasis added*) include *some** retail, parking, office and public service space (DEIR, page A-3) and as a “Center...for the following uses: applied research; a small conference center; education and training for members of the fishing industry; backup facilities and training for members of the fishing industry; backup facilities for *Underwater world*; office; retail; parking. (DEIR, page A-4). Alternatives are described in the Initial Study as “a Visitor

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Center” and “an adjunct tank/research facility to *Underwater World Aquarium*.” (Laura Taylor, written comments)

Response

The three comments above are comments on the Initial Study (Appendix A of the EIR) completed for the proposed project in 1994 to determine the focus of the EIR. Between the time that the Initial Study was prepared (May 1994) and the time that the DEIR was published (April, 1996) the Port made several adjustments to the proposed project, partly in response to input from the Pier 45 Advisory Group and partly in response to comments received from public agencies and community groups on the Initial Study.

The main difference in the Project Description in the Initial Study and what was proposed in the EIR is the size of the Hyde Street Fishing Harbor. The original Harbor was for 116 boats, and included a new two-story, 4,100 sq. ft. Harbormaster building, and a new 1500 sq.ft. fuel station building on Hyde Street pier and on new fill. The main differences between what was originally proposed at the time of the Initial Study for Pier 45 Sheds A & C and what is described in the EIR is the elimination of backup facilities for Underwater World and adjustments to the space allocated to the conference center and retail uses. The potential 30,000 sq. ft. of space in Sheds B & D for Fisheries Center use has been eliminated from the proposed project description because the sheds are 90% leased for fish processing/handling and this use has priority over other potential public uses of the sheds.

The EIR includes a discussion of activities (fish processing/handling) in Sheds B & D as part of the setting sections for land use, water quality, traffic and parking because of the relevance to the adjacent proposed uses for Sheds A & C. These uses are also considered in the EIR as part of the cumulative analysis (see page 139 in the EIR for future traffic conditions).

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Finally, in response to the Initial Study identification of odor from fish processing as an EIR topic: pages 130-132 of the EIR discusses odor from fish processing, not because fish processing was part of the proposed project, but because the proposed improvements to the Harbor are associated with fish processing activities (for example: the Harbor improvements are directed to improved facilities used by commercial fishing boats that are in the harbor, in part, to deliver to the processing/handling businesses on Pier 45).

Comment

“Attachment C Critique of Water Quality Report, dated November 29, 1989, prepared by Bendix Environmental Research, Inc.” (Margaret Reilly and Roger Beers, written comments)

Response

The Bendix report, although reviewed, was not used as a basis for this EIR. Therefore, responses to comments on the referenced report are not relevant to this EIR.

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8. COMMENTS ON PREVIOUS NEGATIVE DECLARATION

Comment

“No surface Water Samples Were Taken.

In the Dolphin Club's Scoping Comments we called specific attention to the fact that the Bendix study had failed to do any testing for surface water, obviously that area most likely ingested and in contact with swimmers.” (Margaret Reilly and Roger Beers, written comments)

“No mention is made of the increased sources of human waste that will be now located next to Aquatic Park if the Project proceeds. The earlier Negative Declaration admitted that disposal of human wastes in the Bay is currently a problem, but failed to quantify the amount of additional wastes of this nature that were likely to be generated by the proposed Project.

It simply asserted that the provision of sanitary facilities will make appropriate disposal "possible" and relied on the assumption that regulations which are not currently being enforced will be enforced in the future. While it may be reasonable to assume that such facilities will be utilized to some degree, it is not reasonable to assume, as the Negative Declaration did, that this will eliminate the incremental impact of the Project -- particularly given the increase in number of fishing boats and activities and their proximity to Aquatic Park. The agency has not taken into account the degree to which the Project will itself contribute to increased generation of human wastes. Moreover, the 75% net decrease that the Negative Declaration asserted will be attributable to the Project was based on the arbitrary assumption that the new facilities associated with the project would produce a 50% reduction and "improved enforcement" would produce a 25% reduction, and again did not take into account that some of the primary sources of this pollution would be sited closer to Aquatic Park. Water Quality Report at 35. No justification whatsoever was provided for these figures. Moreover, how could this type of "net reduction be calculated when at no point did the City or its consultant calculate the amount of new waste attributable to the Project? In addition, the Negative Declaration failed to specify the regulations that it relied upon, or the basis for assuming that these regulations would be enforced in the face

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of the fact that the Port's enforcement record to date has been abysmal. (Margaret Reilly and Roger Beers, written comments)

Response

The above comments are resubmitted comments that were made on the previous 1988 Negative Declaration for the Fisheries Center, not on this EIR for the Hyde Street Fishing Harbor/Pier 45 Sheds A&C. Similarly, the reference to the page 35 in the Water Quality Report is to a previous study conducted by Bendix Environmental Research. Information in this EIR shows bacteria levels in Aquatic Park below the Basin Plan criteria for water contact recreation use. The EIR does not assume a substantial increase in the number of boats in the Harbor over the historic use for the past decade, nor does this EIR assume a percentage reduction of human waste because of project improvements in the Harbor.

Comment

“Both the Negative Declaration and the Water Quality Report acknowledged that the project will generate additional “floatables” (which already present a pollution problem), but again asserted without quantification or analysis that the project components designed to mitigate this problem will be fully effective.” (Margaret Reilly and Roger Beers, written comments)

Response

The above comment is not on the EIR. The comment is on the previous Negative Declaration; however the comment was resubmitted by the commentors for this EIR. Litter and trash impacts are discussed in the EIR on page 120-121, and also under Other Wastes From Boats on page 118. Because boats are not the only potential source of litter and trash in the Bay (some is blown in from visitor areas adjacent to the project area and some is carried into the Harbor by seagulls), quantification of the potential volume of litter and trash from boats using the new Harbor or Pier 45 Sheds A&C is not possible. The Port is committing to

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increased operation of the work skiff in the harbor from one time daily to twice daily to reduce the amount of floatables in the Harbor. Additionally, the floating boom and flexible skirts on the proposed Harbor docks would contain floatables in the Harbor and prevent them from moving into Aquatic Park.

D. STAFF INITIATED TEXT CHANGES AND ERRATA

1. ESTABLISHMENT OF FISHERMAN'S WHARF ENVIRONMENTAL QUALITY ADVISORY COMMITTEE

Between the time that the Draft EIR was published (April 26, 1996) and the publication of this Final EIR, the Port established the Fisherman's Wharf Environmental Quality Advisory Committee to provide a mechanism for achieving the goal of improving the quality of the existing environment in Fisherman's Wharf/Aquatic Park. The Committee will provide input to the Port on a continuing basis for identifying problem areas and developing recommendations to improve existing conditions in the Fisherman's Wharf/Aquatic Park area.

The Port has provided a staff member, the Environmental Health and Safety Manager, to organize and chair the Committee. The Port will also retain a technical advisor to advise the Committee on water quality issues. The Port has provided funding to the Committee to be used in the development of an environmental quality plan and set of recommendations for action. It is the intent of the Port to fund this Committee as an on-going activity and not a one-time event.

The Committee is composed of representatives of the variety of interested parties in the Fisherman's Wharf area that includes industrial, retail and recreational activities.

Representatives on the Fisherman's Wharf Environmental Quality Advisory Committee are:

Alessandro Baccari, Fisherman's Wharf Merchant's Association

Jeanette Caito, Caito Fisheries

Tom Creedon, Port Tenants Merchant's Association

Lynn Cullivan, SF Maritime National Historic Park

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I. Establishment of Fisherman's Wharf EQAC

Bob Miller, SF Boat Owner's Association

Aaron Peskin, South End Rowing Club

Tim Przygocki, SF Maritime National Historic Park

Margaret Reilly, Dolphin Club

Joel Robinson, SF Recreation and Parks Department

Jim Salerno, SF Bureau of Water Pollution Control

A substantial portion of the comments made on the Hyde Street Fishing Harbor and Pier 45 Sheds A & C EIR concern the existing conditions in the Fisherman's Wharf area and issues related to Port management and supervision of the Harbor activities. These same issues have been raised by the Dolphin Club and South End Rowing Club since 1988 when the first development proposals were presented by the Port for the Fisherman's Wharf area. The establishment of this Committee is intended to address these issues and identify feasible and mutually agreed to solutions to specific problem areas.

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2. 1995 Fish Landing Information

2. 1995 FISH LANDING INFORMATION

The 1995 Commercial Fish Landings information was released by the California Department of Fish and Game after the DEIR was published. The 1995 data show a slight increase over 1993 and 1994 data for the pounds of fish landed in the San Francisco Bay Area (includes San Francisco, Bodega Bay, Princeton, Oakland and Sausalito). The 1995 total pounds landed for selected species is 49.6% less than the 1988 volume landed in the San Francisco Bay Area, and less than the total volumes for the five years preceding 1993.

The updated information replaces Table 1 on page 11 of the EIR and delete the table on the two pages following A.42. The first sentence on page 10 of the EIR is revised to:

As shown in Table 1 San Francisco Bay Area fish landings have declined between 1988 and 1995 from 21.8 million pounds to about 11.0 million pounds.

The last sentence of the first paragraph on page 10 is deleted.

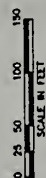
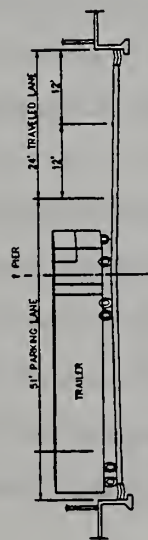
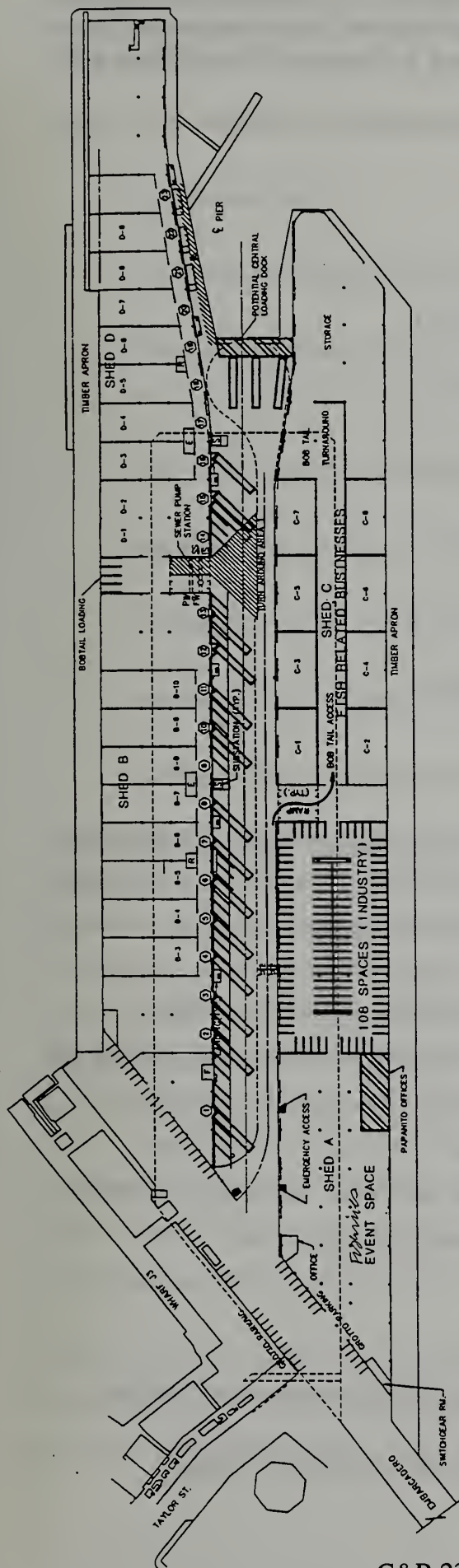
3. CHANGES TO PROPOSED USES OF SHEDS A & C

The Port submitted the project description to City Planning, Office of Environmental Review, for the preparation of this EIR in early 1994. The alternatives that are analyzed in the EIR were also developed at that time and included various combinations of uses in Sheds A and C on Pier 45. However, unlike the Hyde Street Fishing Harbor, the ultimate proposed use of Sheds A & C remains undecided.

At the time that the EIR was initiated the Port requested analysis of the Fisheries Center in Sheds A & C as an example of possible high intensity development useful for analysis of potential significant adverse cumulative impacts resulting from development of the Hyde Street Fishing Harbor, in conjunction with the nearby Sheds A & C. However, any final development proposal for Sheds A & C would be made by the Port in consideration of the recommendations of the Pier 45 Advisory Group, a group of community representatives convened by the Port to advise the Port on the long terms uses in Sheds A & C.

The Pier 45 Advisory Group is composed of fishermen, fish processors, Port tenants and leaders of community organizations in the area. In the past months, following the publication of the DEIR, The Advisory Group has worked in unison with Port staff to address the long-standing issues that have precluded the productive use of Pier 45 for nearly 20 years. The Port will not proceed with any long term uses on Sheds A & C until the Advisory Group has made its recommendations. Depending on the final recommendations of the Advisory Group, subsequent environmental review may be required at a future time.

The Pier 45 Advisory Group is working with Port staff to study the feasibility of expanded truck operations in the valley of Pier 45, as well as additional fish processing uses in Shed C. In early June, following publication of the DEIR, the Port requested that the Final EIR address potential development of Sheds A & C as proposed by the Pier 45 Advisory Group. The Feasibility Study, completed in September 1996 (Rajappan & Meyer Consulting Engineers) considered three alternative uses for Sheds A & C. The configuration set forth below was discussed with the



**ALTERNATIVE
MIXED USE (SPECIAL EVENTS/FISH PROCESSING) IN SHEDS A & C**

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3. Change To Proposed Uses of Sheds A & C

Advisory Group and is now considered the Port's Preferred Alternative for Sheds A & C, replacing the Fisheries Center as the proposed project.

Figure 19a shows the layout of space for this alternative.

<u>Shed A:</u>	Fisheries Center/Event Space	40,000 s.f.
	Office (Pampanito)	10,000 s.f.
	Parking for 108 industry spaces	20,000 s.f.
<u>Shed C:</u>	Fish Processing	32,000 s.f.
	Storage	18,000 s.f.
	Truck Access/Bob Tail turnaround	30,000 s.f.

Due to physical constraints on the east side of the pier, the Port would not allow fish processing space in Shed C to receive fish by boat. Fish would be delivered by truck to the Fish Processing space in Shed C. This alternative would require that Shed C be completely upgraded.

Physical changes that are necessary to accommodate the preferred alternative include the following: an epoxy floor covering; electrical, telephone and potable water systems; sanitary and industrial sewers including a pump station; new roof; demising wall; interior and exterior painting. Physical alterations would also need to be made to allow truck access. These improvements were outlined in a conceptual cost estimates included in the Rajappan & Meyer study noted above, and based on an estimate by Moffatt & Nichol, Sept 4, 1996.

Shed A

- Construct internal separation wall between events/fisheries center area and parking.
- Demolition for and construction of new enclosed fire exits that exit to valley.

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D. Staff Initiated Text Changes and Errata
3. Change To Proposed Uses of Sheds A & C

Shed C

- Provide new roof.
- Construct new sanitary and industrial sewer system on fill/piles.
- Place bonded concrete paving, polyester concrete and concrete coating to internal floor area.
- New electrical and telephone systems.
- Repair existing windows.
- Provide new roll-up doors.
- Interior and exterior painting and signage.
- Construct internal fire-rated corridor walls.
- Finish and place exterior manddoors, landings, area separation and misc. walls.

In addition, the Port is making repairs to the fendering system on the east side of Pier 45 to accommodate visiting ships. The project is included in the Port's Capital Plan. If fish processing space is created in the future in Sheds A & C, the Port anticipates that shipments will be made primarily by truck given the lack of a breakwater on the east side, thus allowing visiting ships to continue to tie-up on the east of Pier 45.

Employment estimates for 32,000 s.f. of fish processing space, based on average employment of tenants currently in Sheds B & D (average of employee) is 51 employees based on average sq.ft./employee of 565 in Sheds B & D.

Based on the Port's experience with Pier 45, Sheds B & D, the construction period for the preferred alternative would be approximately nine months, of which 50% of the time would be spent on interior improvements. This is based on the estimated construction cost of

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3. Change To Proposed Uses of Sheds A & C

approximately \$2.0 million noted in the Rajappan & Meyer Report.

The type of construction equipment involved would be: backhoes, hoe-ram, front end loaders, concrete trucks, roofing, equipment, dumpsters, asphalt trucks and paving equipment. (Source: Ed Byrne, Port engineer and project manager for Pier 45 improvements)

The existing truck docks in the 'valley' behind Sheds B & D would be reconfigured to diagonal back-in parking and a truck turn-around area would be added between Sheds B & D (in the shaded area on Figure ____). Short (Bobtail) truck loading would be provided inside Shed C, with access from the 'valley' via a ramp between Sheds A & C, and a turnaround at the end of Shed C. Two to three semi-truck loading docks would be constructed at the end of Pier 45.

Approximately 108 parking spaces for commercial fishing industry employees would be provided in Shed A, with access to the parking from the 'valley' through a ramp between Sheds A & C.

IMPACTS

The primary difference between this Alternative and the Alternatives for Sheds A & C discussed in the EIR is the introduction of fish processing into Shed C. Physical changes to Pier 45 would be similar to those discussed in the EIR for the Fisheries Center, the Conference Center and Education Center Alternatives, with the addition of the floor sinks, industrial sewer system and concrete floor coating for fish processing. Fish to be processed or repackaged would be delivered by truck, not by boat, since there is no direct boat access provided along the east side of the Pier 45 apron. Impacts, therefore, would primarily be traffic and parking impacts related to trucks and employee vehicles for the fish processing use.

This alternative would generate a total of 4,819 net new person trips per weekday (compared to the 4,940 net new trips for the Fisheries Center proposed in the DEIR). The majority of the trips (about 4,300/day) would be associated with the event space in Shed A, and about 500 daily trips would be associated with the fish processing in Shed C. Peak hour weekday trips would be 438

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3. Change To Proposed Uses of Sheds A & C

(compared with 499 for the Fisheries Center Alternative) and peak hour weekend trips would be 615 (compared with 601 for the Fisheries Center).

The addition of a visitor-oriented attraction in Shed A would increase tour bus volumes, although not substantially, since 70% of visitors to a new attraction at Fishermans Wharf are linked to trips that would already be made to the Wharf.

Other impact areas (land use, water quality, marine biology, utilities, public services, air quality/odor, and hazards) would be the same as impacts for the proposed changes to Sheds A & C discussed in the EIR.

4. NO PROJECT ALTERNATIVE

The text on page 177 of the EIR is expanded to include additional information on the Harbor conditions under the No Project Alternative. The following text is added following the second full sentence, "No pump-out or restrooms would be available to fishing vessels or operators."

Without a convenient 20-gallon per minute pump-out facility, boat operators would need to pump-out vessel heads at Pier 39, the closest facility to Hyde Street Harbor. The potential for illegal disposal of human waste into the Bay without a convenient pump-out in the Harbor, and with the existing portable restroom facilities, would continue to exist.

The existing fueling facility would not be improved to include a new fuel delivery pipeline to the fuel dock equipped with an automatic shut off feature and leak detection system. Without the fuel delivery pipeline, the existing fuel truck would continue to be parked on the Hyde Street Pier. The potential for oil spills in a location in the Harbor that is closest to the Aquatic Park swimming area exists under the No Project Alternative.

Stormwater and urban runoff from the Hyde Street Pier would continue to drain into the Bay under the No Project Alternative, compared with the proposed oil-water separator proposed for the paved area of the Pier.

Public access to the Hyde Street Pier area would not be improved under the No Project Alternative. Night lighting would not be provided.

Transient and oversized commercial fishing boats would continue to raft in the Harbor or side-tie to other boats, making supervision and access to the boats difficult for the Harbor Master. [Modern facilities for the commercial fishing industry.] such as floating docks that are easily assessable from boats; storage and gear boxes; parking for boat operators; security gates at the foot of the dock for boat safety; and night lighting in the berthing area [would not be provided.] Unless and until Port could locate an available funding source, flexible skirts surrounding boats in a berth would not be provided and floatable debris from boats and other surface water contaminants would not be contained in the Harbor for the Port's skimmer to collect.

